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BY

Sir ARNOLD McNAIR, C.B.E., K.C., F.B.A., LL.D.

ASSISTED BY

Professor H. C. GUTTERIDGE, K.C., LL.D.

AND THE

REVIEW OF LEGISLATION

EDITED BY

Sir CECIL T. CARR, K.C.B., K.C., LL.D.

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Let observation, with extensive view,
Survey mankind from China to Peru.
SAMUEL JOHNSON.

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Wroclaw University (per British Council).
Wyoming State Library (per F. W. Faxon Co.).
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Yale University Library (per Allen & Son, Ltd.).
Yugoslav Embassy.

Zanzibar, Registrar, High Court (per Crown Agents).
Zaphirou, G. Z.
Zepos, Professor P. (Greece).

ANNUAL REPORT

THE year 1946 has been marked by a renewal of old associations as well as by an increase in the number of new members. In particular the Committee are grateful to be able to record that the Honourable Societies of Lincoln's Inn and the Middle Temple have resumed their grants to the work of the Society, which has been continuously supported by the Law Society, and the Governments of Fiji, the Gold Coast, Mauritius and Trinidad. The number of old subscribers who have renewed their association with the Society is shown in the remarkable increase in the amount received from subscriptions in arrear. These facts, in conjunction with the increase in the number of Government and general subscriptions, in obtaining which the British Council have again kindly assisted, justify the Committee in regarding with satisfaction the present position of the Society. It should, however, be noted that the credit balance shown is subject to the printer's bill for the last number of the *Journal* published within the year.

The Committee record with a deep sense of loss the death of Sir John Peden, the President of the New South Wales Legislative Council, who for many years took an active interest in the work of the Society, and of Mr. Owen Jones, who was a valuable member of the Executive Committee. They are glad, however, to welcome as members of the Council, Mr. W. E. Beckett, Legal Adviser to the Foreign Office, Professor W. C. Cheshire, Vinerian Professor of English Law, Lord du Parcq, Professor Dr. Gerbrandy, formerly Prime Minister of the Netherlands, Sir Arnold McNair, Mr. Justice Northcroft of New Zealand, the Rt. Hon. G. R. Thomson, Lord Advocate, and Professor Wade, Downing Professor of the Laws of England. They have also had the honour of adding to their membership the new Chief Justice of the United States, the Hon. F. N. Vinson, in succession to the late Chief Justice Harlan Stone. The Executive Committee have been strengthened by the addition of Mr. W. E. Beckett, Sir Kenneth Kemp, Mr. R. A. Lynex, Sir Arnold McNair and Professor E. C. S. Wade.

The international position of the Society has been recognised during the past year by an invitation to participate in the work of the national co-operating body for the Social Sciences of the United Nations Educational, Scientific and Cultural Organization. The Committee have readily acceded to this proposal and Sir Cecil Carr has kindly undertaken to be their representative.

The publications of the Society have been continued and both the *Review of Legislation* and the *Journal* have contained a quite exceptional amount of material. Owing to difficulties incidental to the war some contributors were unable to send in their annual reviews of legislation and the Committee very much appreciate the way in which, in spite of arrears of other work, they have since been able to make good these deficiencies and thus provide very valuable surveys of legislation during the war years. These include the legislation necessary to carry out the process of reconstruction after a prolonged disturbance of ordinary work.

The double number of the *Journal*, which contained the first four of a series of articles of wide range upon Frustration of Contract in different systems of law, has been generally recognised as fully maintaining the high standard of the Society's publications.

During the year a consolidated index to Volumes XXI to XXV was issued which greatly facilitates reference to the articles and makes good the lack of an index in each volume.

The difficulties of production have increased and the constantly rising costs of printing to which there seems to be no limit, cause serious concern to this as to other bodies producing literature of a learned or scientific character. The standard of work, moreover, does not compare favourably with that which prevailed before the war, with the result that a greater burden falls upon the Editor in the task of revising for the press. Arrangements made by the Committee whereby Sir Cecil Carr undertook the Editorship of the *Review of Legislation* and Sir Arnold McNair became responsible with the assistance of Professor Gutteridge, for the *Journal*, have spread the amount of work though hardly diminishing the quantity for each. The Committee are particularly indebted to the increasing number of contributors to the *Review of Legislation* who from their expert knowledge have provided a singularly valuable survey of the laws passed throughout the British Commonwealth and Empire. The constitutional developments which are taking place are raising questions which will involve a consideration of its scope. It has always been the aim of the Society to comprise in the *Review* the output of the legislatures of the English-speaking peoples though in recent years it has been difficult to attempt to deal with the State laws or even with the federal legislation of the United States on a scale at all corresponding with the treatment of the laws passed within the British Commonwealth and Empire. The Committee are also alive to the fact that there is no corresponding publication for the legislation of the South American States though efforts are being made in that direction in the United States. As regards Continental legislation, this has always been the special province of the French Society of Comparative Legislation. The Committee welcome the revival of the work of that Society and congratulate them upon being able to resume their activities which entitled them to a pioneer position in the study of Comparative Legislation.

The work which has been done in this field over a period of more than half a century has undoubtedly had its effect in enhancing the appreciation of the practical value of the study of the laws of other countries especially in the promotion of new legislation. The extent to which information is collected by Commissions and Committees regarding the laws of other countries and their operation shows readiness to learn from the experience of each other and at the same time contributes to uniformity in dealing with the social and economic problems which are common to so many of the peoples of the world. The question indeed, arises, whether the time may not be coming when the work hitherto undertaken by voluntary bodies may so develop as to become a necessary part of the machinery of Government. In the meantime, however, the extended support of the Society's activities demonstrates that it is fulfilling a function welcomed by the increasing number of students of comparative legislation outside as well as within the legal profession.

The Committee learned with great pleasure of the Viscountcy conferred by His Majesty on the President of the Society and offer to him their congratulations on an honour which so fitly recognises his eminent public services.

SOCIETY OF COMPARATIVE LEGISLATION

Dr. RECEIPTS AND PAYMENTS ACCOUNT FOR THE YEAR ENDED DECEMBER 31, 1946 **Cr.**

	£ s. d.	£ s. d.		£ s. d.	£ s. d.
To Subscriptions :			By Publication of *Journal* :		
General	416 5 5		Printing—vol. xxviii, parts 1 and 2	309 3 2	
Government	107 7 0		Postal Wrappers	16 13 4	
		523 12 5	Paper for *Journal*	22 11 6	
,, Grants :					348 8 0
Fiji Government	10 0 0		,, Salary of Clerk		153 0 0
Gold Coast Government	6 0 0		,, Rent of Office		75 4 9
G. F. Grigs, Esq.	0 10 6		,, General Expenditure		37 15 6
Law Society	21 0 0		,, Audit of Accounts		3 3 0
Lincoln's Inn	20 0 0		,, Stationery		12 0 7
Mauritius Government—1944, 1945, 1946	15 15 0		,, Insurance		0 11 2
Middle Temple	10 10 0		,, Prospectus		9 5 0
Trinidad Government	5 0 0				
		88 15 6			
,, Sale of *Journals*, Back Numbers, Reprints, etc.		35 13 5			
,, Interest on 3% Defence Bonds		6 0 0			
,, Subscriptions in arrear paid during 1946		176 8 7			
,, Subscriptions in advance paid during 1946		86 13 0			
,, Cash at January 1, 1946 :			,, Cash at December 31, 1946 :		
At Bank	516 1 0		At Bank	795 7 8	
In Hand	2 16 3		In Hand	1 4 6	
		518 17 3			796 12 2
		£1,436 0 2			£1,436 0 2

We have examined the above Receipts and Payments Account with the Books and Vouchers, and certify that it agrees therewith. We have verified the Bank Balance, and also the investment of £200 3% Defence Bonds.

LONDON : 48, Copthall Avenue, E.C.2.
February 20th, 1946.

CASH, STONE & CO.,
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INTRODUCTION

[*Contributed by* THE EDITOR.]

CICERO in a rhetorical moment declared that amid the clash of arms the laws are silent. The following pages, containing the summaries of legislation enacted in many countries during the year 1945, show us that, in that final year of fighting as in the five previous years of bitter struggle, the voices of those who make the laws continued to be heard. Almost everywhere, we see, legislators were preoccupied with war, its conduct and consequences. But in 1945, because it was the year of victory, and because they had faith in the future, they could begin the work of reconstruction. Turning the pages at random, one finds the countries adopting the Bretton Woods plan, Malta G.C. initiating the repair of her war damage, Gibraltar validating the hurried evacuation of her civilian population, Burma and Malaya wiping out the evil traces of enemy occupation, and Britain, which was spared that tragic experience, essaying to ' de-requisition ' land taken for war-time purposes.

And now in 1945, as in 1918, that other great year of victory, there is one outstanding question which students of legislation begin to ask. Countries which normally enact their laws in formal assembly and after full discussion have, under stress of emergency and the threat of unforeseen dangers, been delegating legislative power wholesale to the executive for the period of hostilities. How soon, or how late, will they abandon this exceptional if convenient method, and return to the peace-time practices of parliamentary procedure evolved in the Palace of Westminster and honoured by imitation elsewhere? The answer varies from country to country. Queensland decides to repeal her Public Safety Act of 1940 and, with certain savings, the directions and orders flowing therefrom. Victoria takes much the same course with her National Security (Emergency Powers) Acts. Canada, on the other hand, replaces her War Measures Act with a National Emergency Transitional Powers Act delegating a revised authority appropriate to the reconstruction period but limited for the present to a duration of little more than one year (p. 30). Similarly in Britain the war-time Emergency Powers (Defence) Act of 1939 is allowed to lapse but is replaced by a Supplies and Services (Transitional Powers) Act allowing orders to be made for a wide range of post-war purposes (pp. 1–2). Whereas, however, the 1939 Act was given a life of twelve months only, and, at a time of the gravest national danger, a powerful Prime Minister was obliged to request each House of Parliament annually to prolong that life for another year, the substituted Act of 1945 continues the exceptional powers for no less than five years ahead. Some drastic Defence Regulations like 18B (under which persons could be detained without trial) were promptly dropped when the enemy surrendered; but the hard-worked Defence Regulation 55 (for the general control of industry) gains a new lease of life and will continue to be the prolific parent of orders for food rationing, price control, coupon buying and all the other elements of a restrictive austerity. So widely had the authorized purposes of the Emergency Powers (Defence) Act been drawn that the regulations and orders made thereunder (the children and grandchildren of those Acts) were not to any serious extent held by the courts to be invalid as having exceeded the statutory authority. In India, as Mr. Davison shows us, the Defence of India Rules were not so fortunate (p. 122). The resumption of party government in Britain, after the general election of 1945, caused the parliamentary check upon those statutory children and grandchildren to be less formidable. The House of Commons may have the power to pray His Majesty in Council that a regulation or order be annulled. Under the party system the party's majority in the House will be employed to defeat the prayer. Although we have discussed this question of parliamentary control of delegated legislation largely in terms of the practice and experience of the Parliament at Westminster, it is very far from being exclusively a problem for the United Kingdom. It would

be most instructive if we could pool all the information available of the success attained by other legislatures in making that control effective. Meanwhile an Englishman can observe with sympathetic respect what is being attempted so far away as in the Kingdom of Tonga (p. 108).

The amazing scope and diversity of the legislative topics to which our expert contributors invite attention can be realized by any reader who will run his eye down the index at the end of this volume. No commentator can hope to do justice to their variety. If at this point a few samples are picked out by way of illustration, it is inevitable that others equally remarkable will escape mention. Dwellers in a temperate climate will marvel at the problems which nature, always a law unto herself, offers elsewhere. Flood relief and bush fires in Tasmania, drought relief and prickly pear in New South Wales, famine distress in Bengal, rice shortage in British Guiana, grasshoppers in Alberta, mosquitoes in Nigeria, bacterial ringrot attacking potatoes in parts of Canada, bee disease in Northern Ireland—there seems no limit to the legislator's anxieties. Queensland has to control the introduction of new kinds of fish, because the exotic visitors prey upon the indigenous species (p. 86). In South Australia, owners and occupiers, in addition to their previous duty to rid their land of rabbits, wild dogs and foxes, must now destroy rabbit burrows on their land and on half the adjoining road (pp. 95–96). Grenada has to deal with the export of nutmegs, Seychelles with the export of copra, Queensland with fruit marketing, Kenya with sisal growing, St. Vincent with forest protection. Zanzibar too is concerned with local timber resources, a proportion of the profits of wood-cutting being earmarked for local welfare projects. Alberta legislates for "animals running at large"; Uganda restricts the over-grazing of Crown lands by African cattle-owners; New South Wales limits the unfair encroachment of migratory bee-keepers upon protected apiaries (p. 59), as well as tightening the provisions for preserving wild flowers and native plants (p. 78). Eire takes fresh steps to keep her pictures and her documents of historical, geneological or literary significance at home. The Gold Coast sets up a commission to protect monuments and relics of cultural interest. Saskatchewan is establishing (at her university) an Archives Office where her public records can be safely kept, classified, indexed and calendared. And—another instance of statutory protection based (and why not?) upon the sentiment of a community—she adopts the prairie sharp-tailed grouse as the bird emblem of the Province. Newfoundland takes thought for the Goose Bay Airport. It is a sign that Britain creates a separate department to develop air transport; Canada's Air Transport Board has fresh functions and the Trans-Canada Air Lines organization is given fresh responsibilities. In Quebec a Radio Bureau will supervise transmission on the Radio-Quebec system and attend to the agreements for artistic, commercial or other programmes. All this legislative activity is a modern rejoinder to Cicero's rhetoric. The enacting of laws, at any rate, has not been suspended amid the clash of arms; the enacted law has not been silent; it has conferred fresh benefits, for instance, upon distressed seamen in the Bahamas, upon coloured school-children in the Cape Province, upon illiterates in Zanzibar, upon half-caste aboriginals in Tasmania, upon Indian criminal tribes in Madras, and upon adolescent prisoners on the North-West Frontier.

One might multiply indefinitely such samples of law-making. Our readers, with or without the aid of the index, may be left to make their own selection. Often a brief entry gives a hint of the human experience, strange and even tragic, which must have led to the making of the law—as when British Columbia finds it necessary to prohibit marriage by proxy or to declare the status of a woman's children when the death of her husband has been presumed and he returns after all to find that she has married again (p. 41). There should, of course, be something in our contributors' summaries for everyone who takes an interest—as everyone should—in the laws that are made. Does anyone make a special study of constitutions and the development of Commonwealth relations? Here he may

read an expert analysis by Mr. Ivor Jennings of what has happened in Ceylon, or, on other pages, the transitional stages in India, Burma and British Malaya, the respect still paid to the Act of Anne, disqualifying the holders of " offices of profit " from sitting and voting in the legislature of the United Kingdom, and the mitigation of that principle in Tasmania and Queensland where State employees may stand for Parliament without resigning their posts. Is anyone concerned with public health? Here he may note the solid recognition of indigenous medicine in Ceylon, and the eugenic tests of persons about to marry in Saskatchewan. Is anyone interested in labour legislation? Here are accounts of the regulation of wage-rates by " wages councils " (in place of the old " trade boards ") in Britain, the registration of employers and of industrial workers in Nigeria, workers' holidays in New South Wales, and the shutting up of places of indoor entertainment on Christmas Day and Good Friday in Tasmania. Occasionally an English observer may fancy that he detects the adoption overseas of some law first enacted at Westminster. But there is no copyright in legislative pattern or design. Westminster will gladly pay an oversea legislature the compliment of imitation. The system of family allowances, which the late Miss Eleanor Rathbone successfully pressed upon the United Kingdom Parliament, was first well tried in the Dominions. At several other points, as our summaries show, oversea legislatures have already solved problems which Westminster has lately had to think about. There is, for instance, the requirement in Tasmania that all " electoral matter " (widely defined) be signed (p. 101); in this matter the election law of Britain is hardly stringent enough as yet. There are the schemes for national parks in Kenya (p. 150) and for the Kosciusko State Park in New South Wales (p. 62)—amenities towards which Britain is still feeling her way. There is the simplified entry of birth registration adopted by New South Wales (p. 67) to relieve from embarrassment the boy or girl who would otherwise learn from the birth certificate proper the fact that he or she is illegitimate or is an adopted child; this point was taken up in Britain two years later. Tasmania is giving State assistance to her tourist industry; loans are being made to hotels and guest-houses for improving their accommodation (p. 103). Many an innkeeper in England may be asking for the same support.

Sir Courtenay Ilbert, one of the founders of our Society of Comparative Legislation, used often to comment on the small proportion of legislative output, in England and indeed elsewhere, which could be called " lawyers' law." It is safe to say that lawyers' law is seldom altered without lawyers' assent. The legal profession stands conservatively upon the ancient ways; yet even the common law of England is allowed to change. In the United Kingdom the defendant's plea of contributory negligence has had a set-back (p. 10), the common law being at last assimilated to the Admiralty rule. New South Wales has dealt with the same point (p. 76) and has also enacted that certain personal actions shall not die at the death of the prospective defendant. She has further placed upon her statute-book some effects of shock. If, for instance, A by his negligence puts B in peril and B's kinsman in consequence suffers shock, A may have to compensate B's kinsman although he did not know of his existence. This will recall to readers the decisions of the House of Lords in *Bourhill* v. *Young* [1943] A.C.92.[1] Other points of lawyers' law in our summaries include the new Canadian statement of prize law (p. 31), the abolition of the doctrine of common employment in Victoria (p. 106), and the new Criminal Justice Act passed in Northern Ireland whereby, as Mr. Leitch explains, many technical difficulties of procedure and administration are removed (p. 21). There are changes in the ancient jurisdiction of the coroner as acclimatized in Alberta, Quebec and Nigeria. An intriguing Irish Legal Terms Act has been passed by Eire. There are countries where history, patriotism or the grouping of different races makes it desirable, whether con-

[1] See Dr. J. Charlesworth's analysis of this and other shock cases in the *Law Quarterly Review*, vol. lix, page 150.

venient or not, that the laws be officially set forth in more than one language. Not every ancient tongue has evolved a sophisticated vocabulary. In Eire the Minister of Justice may now prepare and publish legal forms and precedents in the Irish language, and, after consulting a strong committee, may declare specific Irish words to be the approved equivalents of English terms in statutes and formal documents (p. 28). More than one legislature has adjusted its statutes of limitation so as to take account of war conditions such as the absence of soldiers on service or their internment as prisoners of war. The admission of photographic copies of documents as evidence, doubtless due to the threats of destruction of the originals, has continued to find favour. As for the training, privileges and organization of lawyers, Seychelles authorizes the Chief Justice to regulate examination and the course of studies of would-be attorneys. The right of audience of enrolled barristers and solicitors in magistrates' courts is defined in Sierra Leone. In British Columbia ten King's Counsel may be appointed every two years; in Saskatchewan such appointments require the approval of high judicial authorities and of the benchers of the Law Society.

Besides these arrangements for the legal profession, there is the usual diversity of enactments for the organization and discipline of other vocations. Registration and licensing, well-tried methods of administrative control, continue to be applied. Bombay and Madras attend to their medical registers. Nurses are to be registered in Uganda. Kenya allows assistant surgeons, with others of good service, to be licensed as medical officers. Alberta incorporates a Chiropractic Association; on the advice of a Board of Chiropractors the Lieutenant Governor can suspend or cancel registrations (p. 37). Saskatchewan similarly incorporates a Physical Therapists' Association. " Optometry " is defined and regulated in New South Wales (p. 74), where the relations of dentists with friendly societies and with mining companies' dental clinics have required legislation. In New South Wales, moreover, there is to be a Register of Physiotherapists, and registered public accountants will have the beginnings of a monopoly of audit work (p. 75). The registration of agricultural chemists is arranged in Mauritius. Bailiffs and those inquiry agents who gather evidence for use in divorce and matrimonial litigation are to be licensed in South Australia. A professional tribunal which, like the General Medical Council in England, is charged with the enforcement of professional and ethical standards is sometimes attacked in respect of its disciplinary decisions. It is to be noted that British Columbia has given such tribunals a statutory protection, provided that they act in good faith and with reasonable and probable cause (p. 41).

Our contributors, to whose learning and labour we owe so much, are in many cases the official draftsmen of the laws which they record for us. Their statement of legislative origins and difficulties has special value to other draftsmen and to students of what Bentham called nomography. Bentham, in his zeal for the publishing of the written law, would have been interested in a novelty from Ontario. In England it was formerly the rule that a statute took effect from the beginning of the session in which it was passed. This inconvenient rule was changed in 1793, since when, if no other date is named in a statute, the date of operation is the date of the Royal Assent. Henceforth in Ontario the normal date of operation will be the sixtieth day after prorogation. This should give the citizen a little more time for studying laws of which he cannot plead ignorance.

There are new enactments on statutory interpretation in countries as widely separated as South Australia (p. 90) and Somaliland (p. 153). In the latter case Sir Alison Russell's model ordinance gains fresh application. Many legislatures have tidied their statute-books by the fresh production of Revised Statutes. Apart from an over-due modernisation of some archaic provisions about treason, the United Kingdom does little in 1945 to improve the form of its laws and to eliminate what is obsolete. If ever the departments in Whitehall enjoy any relief from nearly ten years of administrative strain, there are many branches of statute

law, ancient and modern, which ought to be consolidated. In this connection the Indian practice (comparable with that of New Zealand) of periodically passing a Repealing and Amending Act for the formal elimination of spent and obsolete enactments and for the correction of minor errors (p. 119) would be worth study. One of the obstacles to a programme of consolidation is the almost inevitable discovery of doubts as to the true interpretation of the existing law; often the points are of secondary importance, but, even if the doubts involved some matter of principle, " certainty is so essential to law that law cannot even be just without it." Bacon showed the way, in his *De Augmentis,* to a simple method of reconciling ' antinomies.' The Athenians, he wrote, had a custom of appointing six men every year to examine and report upon the points of conflict in their laws. " After their example," he continued, " let the legislators of every State, every three or five years or so often as it appears good, review their antinomies. And let these first be examined and drawn up by commissioners appointed for the purpose, and then laid before the Parliament, that this matter may be settled and established by vote." If Britain had a Ministry of Justice, it would be the duty of that department to search for, and report upon, the little obscurities and discrepancies which too often stand in the way of orderly re-statement. Pending the establishment of such a Ministry, and without discussing whether such a step be necessary or not, we can confide these concerns to our Lord Chancellors whose Statute Law Committee has, for some ninety years, essayed its appointed task of promoting improvement of the form of the written law of Britain. Other countries have a far more impressive record in this field. Now that the clash of arms is ended, a fresh effort can be begun.

BRITISH EMPIRE

I. BRITISH ISLES

1. UNITED KINGDOM

[*Contributed by* Sir Cecil Carr, K.C.]

Of the 62 public general statutes passed by the United Kingdom Legislature during 1945, two-thirds were enacted by the ten-year-old Parliament which was dissolved in June. Mr. Churchill, having laid the resignation of the Coalition Ministry before His Majesty in May after the surrender of Germany, was asked to form a new Government. The Labour Party representatives quitted the Coalition and the so-called Caretaker Government carried on until the general election brought in Mr. Attlee's Labour Ministry with a substantial majority. Among the laws enacted after the new Parliament assembled in August* several were such as the Coalition Ministry, had it survived, would itself have introduced.

In March the Water Bill was " sent upstairs," the first Bill for many years to be referred to a Standing Committee.

Continuance of Emergency Powers.—The new Parliament met auspiciously on the day when the surrender of Japan was being celebrated. The end of hostilities, however, resulted in the adjustment, not the abandonment, of the administratively convenient method of legislating by Defence Regulations and orders made thereunder. This dominant and significant feature of the post-war, as of the war-time, period has a statutory basis which demands space and patience for its analysis.

The parent of those Regulations and grandparent of those orders was the Emergency Powers (Defence) Act, hurriedly enacted on August 24, 1939. This Act was expressed to operate for twelve months only, but could be renewed annually by resolutions of the two Houses of Parliament. Apart from one prolongation by statute in a dark hour in 1940, it was renewed by resolutions down to the year now under review. In June, 1945, with the Caretaker Government in power, it was continued by statute (c. 31) for six months only. It would thus expire on February 23, 1946, and all its children and grandchildren would die with it. The Labour Government met this situation by two extending statutes. The later of these, not enacted till January, 1946, and therefore falling outside our period, prolonged until the end of 1947 such residue of the 1939 powers as seemed likely still to be needed after the 1939 Act expired. The earlier, the Supplies and Services (Transitional Powers) Act (c. 10*), was enacted at the end of 1945 with effect for no less than five years. It gave powers to make Orders in Council carrying forward and adapting Parts III and IV of the main code of Defence (General) Regulations—substantially those which dealt with ships, aircraft, and essential supplies and works—as well as some of the special codes of Defence Regulations dealing with finance and the encouragement of exports. In the crisis of 1939, with the threat of unpredictable consequences from enemy action, the original Act allowed to Defence Regulations a scope which was generously wide. If they appeared to the Crown to be necessary or expedient for certain broadly phrased purposes, the courts could not declare them to be *ultra vires*.[1] Those purposes were:—

> " the public safety, the defence of the Realm, the maintenance of public order, the efficient prosecution of any war in which His Majesty may be engaged, and the maintaining of supplies and services essential to the life of the community."

* In the references to the chapter numbers of the Acts of 1945 throughout this Summary an asterisk is used to distinguish Acts of the new Parliament (9 & 10 Geo. 6).

[1] See *R.* v. *Comptroller General of Patents*, ex parte *Bayer Products Ltd.* [1941] 2 K.B. 306 (C.A.). See pp. 312, 315.

A brief amending Act, passed a week before the evacuation from Dunkirk began in 1940, enlarged these delegated powers, almost without limit, to include authority to

> " require persons to place themselves, their services and their property at the disposal of His Majesty."

Now, in December, 1945, the new five-year Act applies the power of making Defence Regulations

> " for the purpose of so maintaining, controlling and regulating supplies and services as—
>
> (*a*) to secure a sufficiency of those essential to the well-being of the community or their equitable distribution or their availability at fair prices: or
>
> (*b*) to facilitate the demobilization and resettlement of persons and to secure the orderly disposal of surplus material: or
>
> (*c*) to facilitate the readjustment of industry and commerce to the requirements of the community in time of peace: or
>
> (*d*) to assist the relief of the suffering and the restoration and distribution of essential supplies and services in any part of His Majesty's dominions or in foreign countries that are in grave distress as the result of war."

The Act favours the Executive more generously than did the similar Bill which the Coalition Government had introduced in May. The final defeat of Japan seemed then to be at least some 18 months ahead ; it had therefore been too early to include the purposes of demobilization and resettlement. The Coalition Bill, moreover, asked for the fresh powers for no longer than two years. It was perhaps remembered that a powerful Prime Minister had been obliged to come to Parliament for a formal renewal of the exceptional delegation under the 1939 Act every twelve months while the guns were still firing and the bombs still falling. On the other hand a Labour Government might well wish to secure itself for the term of its natural life against the risk of the House of Lords refusing an annual resolution to prolong controls.

S. 2 of the new five-year Act gives fresh authority to make regulations for price control. The two existing methods of controlling prices were not wholly satisfactory. Control by orders made under Defence Regulation 55 was justified only if the price-fixing was part of a general scheme for the control of industry. The Goods and Services (Price Control) Acts of 1939 and 1941 had enabled prices to be fixed for classes of goods but not for a particular species of the genus.

The new Act contains another novelty. Defence Regulations made under the Act of 1939 had to be laid before Parliament and could be annulled on an adverse resolution by either House within 40 days. But the orders made under the Regulations had been subject to no such Parliamentary control. Henceforth these orders, the grandchildren of the Act, are to be laid and be liable to annulment like their parents. Incidentally this change brings the grandchildren within the scrutiny of the Select Committee of the House of Commons which examines Statutory Rules and Orders.

A Civil Defence (Suspension of Powers) Act marks the beginning of a return to normal conditions (c. 12*). It stops the preparation of local authorities' schemes of air-raid precautions and relaxes obligations of fire-fighting and black-ing-out now happily at last unnecessary.

The General Election.—The approaching appeal to the electorate required a proper register of voters. Peace-time registration (under the Act of 1918) was based on information gained partly from house-to-house canvassing and partly from forms filled up by householders. This system having broken down, Acts of 1943 and 1944 arranged for *ad hoc* registers derived from entries in the war-time register created by the National Registration Act—the Act which initiated the scheme of identity cards by which food rationing has been regulated. In effect

the 1943 and 1944 Acts enabled a name to be included in the electoral register on the strength of an address in the constituency on some qualifying date. Both the Acts proved difficult to work. Moreover they were designed for by-elections, and it was unlikely that *ad hoc* registers could, in the event of a general election, be simultaneously produced for the whole country within the time allowed. A new Representation of the People Act therefore (c. 5), amended later in 1945 by the Elections and Jurors Act (c. 21*), removes the 1943 requirement of an *ad hoc* register and substitutes a register compiled in accordance with the address recorded in the elector's identity card as at the previous June 30. This register is to be published annually on October 15. It will serve for the next twelve months for all parliamentary and local government elections.

Of the resumption of local government elections more will be said later. Meanwhile we may note that the Representation of the People Act, 1945, alters the franchise by abolishing the spouse's qualification and by providing specially for members of the forces, male and female, and for war workers abroad. Extra time is conceded for registering returned prisoners of war. Following the report of a special conference (Cmd. 6581), the Act arranges for postal voting by Service voters, the " postal voting areas " being the United Kingdom and such other areas as might be prescribed by " electoral registration regulations "; in the result this meant almost all areas except the Far East, Australasia and South America. The Air Ministry had promised that aircraft would carry the ballot papers. The postal voting plan requires special provision for counting the votes, for superseding proxy votes by postal votes, and for the preliminary issue of candidates' election addresses.

Polling day for the general election was fixed by proclamation as July 5. At the eleventh hour it was realized that this date fell within the seasonal period of the mass-migration of holiday-makers from Lancastrian and Scottish constituencies. A Postponement of Polling Day Act (c. 40) hastily substituted July 15 for nine parliamentary boroughs and six parliamentary counties, and July 19 for the Nelson and Colne division.

When the election was over, the new Parliament had to pass a Coatbridge and Springburn Elections (Validation) Act (c. 3*). Two new M.P.s had been serving as members of a tribunal under the Rent of Furnished Houses (Scotland) Act of 1942, and had thus exposed themselves to possible penalties for having sat and voted in the House of Commons. They had been discharging a public duty and their pecuniary reward was negligible ; but they were within the danger zone created by s. 24 of the Act of 1707 for those who hold an " office of profit under the Crown." Thus still more parliamentary time was wasted by the failure to modernize the law of disqualification as recommended by the Select Committee in 1941.

Other Constitutional Matters.—Just before Christmas the already mentioned Elections and Jurors Act continues some, and modifies others, of the improvised arrangements for registration and voting. It allows, for instance, blind or otherwise physically incapacitated persons registered in the Civilian Residence Register to be entered in the Absent Voters List so that at parliamentary elections they can vote by post or by proxy. A like concession is given to voters who cannot vote without making a journey by sea or air.

The persons available for jury service are those so marked in the list of electors. The existing jurors books had come into force in January, 1940, being based on the register published in 1939. More improvisation is needed to bring them up to date in accordance with Jurors Book Regulations to be made by the Home Secretary.

Two similar statutes deal with the machinery of government. One (c. 19) sets up a permanent Ministry of Fuel and Power to replace the temporary department of the same name which was created in 1942 by Order in Council under an emergency Act of 1939. The other (c. 21) gives to a new Minister of Civil

Aviation various functions of the Secretary of State for Air exercisable under the Air Navigation Acts and other legislation. He is to organize, carry out and encourage

> " measures for the development of civil aviation, for the designing, development and production of civil aircraft, for the promotion of safety and efficiency in the use thereof, and for research into questions relating to air navigation "

but he is not to be allowed to produce civil aircraft.

As usual, the statutes authorize each Minister to take the appropriate oaths, to appoint officers and to sit in the House of Commons ; each is to be a corporation sole and to have an official seal for authenticating documents.

A minor transfer of functions is effected by the Camps Act (c. 26). In May, 1939, Parliament passed a Camps Act for the dual purpose of establishing summer camps for schools and of supplementing the accommodation for persons evacuated in emergency from vulnerable areas. The English camps, and the corporate body created to control and maintain them, were to be supervised by the Ministry of Health. They now become the care of the Ministry of Education.

International Arrangements.—The Bretton Woods agreements (Cmd. 6546) for the International Monetary Fund and for the International Bank for Reconstruction and Development were laid before Parliament in August, 1944, and were approved by votes of both Houses. In December, 1945, the Bretton Woods Agreements Act (c. 19*) authorizes the payment of the British subscriptions to the Fund and the Bank and enables Orders in Council to carry out consequential provisions.

India.—The Government of India Act, 1933, included in the list of Federal legislative powers the power to impose succession duties. Did this include a duty levied on a whole estate? The Viceroy took the opinion of the Federal Court and received a negative answer. The India (Estate Duty) Act (c. 7) therefore now gives the Federal Legislature power to impose an estate duty on property other than agricultural land, and gives the Provincial Legislatures power to impose it on agricultural land. The proceeds will be distributed among the Provinces. With elections impending in India, an Indian Franchise Act brings on to the electoral rolls in India persons who have returned from " war service " and who might otherwise have had no residential qualifications for voting ; it also extends qualifications depending on service in the forces or on the award of a pension (c. 2*). A curious mistake occasioned an Indian Divorce Act (c. 5*). Under the Indian and Colonial Divorce Jurisdiction Act of 1926, as afterwards amended in 1940, divorce jurisdiction was conferred on Indian courts over Europeans resident in India, and the Governor-General by statutory notification assigned cases concerning those resident in the State of Hyderabad to the Bombay High Court. In 1936 such cases were transferred to the High Court at Nagpur, but the parties and their advisers continued to take these cases to the Bombay High Court which itself acted in ignorance of the change. The new Act is needed in order to make valid the divorce decrees which the Bombay Court had erroneously issued.

Burma.—The Japanese invasion had upset the political development and the prosperity of Burma. Four stages of her progress towards the constitutional goal of Dominion Status were outlined in a White Paper (Cmd. 6635). Meanwhile it was necessary to prolong the three-year period of emergency government established by proclamation on December 10, 1942, under s. 139 of the Government of Burma Act, the equivalent of s. 93 of the Government of India Act under which several provinces of India had for some years been administered. The Government of Burma (Temporary Provisions) Act, 1945, therefore continues the three-year period till the end of 1948, but contemplates a system of Orders in Council (requiring confirmation by the two Houses of the Parliament at Westminster)

for liberalising the existing abnormal régime and for associating councils and other bodies with the Governor in the task of reorganization (c. 30).

Colonial Concerns.—In 1929 a Colonial Development Act authorized expenditure up to a million pounds in a year, partly to relieve unemployment at home. In 1940, when that Act lapsed, another increased the figure for welfare schemes to five millions and granted half a million for research. Now comes a new Colonial Development and Welfare Act (c. 20), giving 120 millions spread over ten years ; not more than 17½ millions are to be spent in one year ; otherwise the ten-year period is treated as one financial whole. The 1940 Act stipulated that grants should be conditional on the existence of reasonable local facilities for the establishment and activities of trade unions. The 1945 Act excludes this condition in respect of the Aden Protectorate where trade unionism is scarcely to be expected.

A short British Settlements Act (c. 7*) illustrates the diverse elements and conditions of territories administered under the British Crown—colonies and protectorates, territories settled, ceded, conquered or mandated. An Act of 1887 empowered His Majesty to make laws for a settlement by Order in Council. He could delegate that power to " three or more persons within the settlement." This made it awkward to establish one legislature for two or more areas—for example, for the Gold Coast area which comprises the settlement of the Gold Coast colony, the colony of Ashanti, and the protectorate of the Northern Territories. Moreover the Act of 1887 prescribed that the delegation should be by letters patent whereas for a protectorate the Foreign Jurisdiction Act of 1890 prescribed that it should be by Order in Council. The new Act of 1945 substitutes for " three or more persons " the words " any specified person or persons or authority," and allows the delegation to be by Order in Council in all cases. Thus the powers of the 1887 and 1890 Acts may be exercised, if desired, in the form of a single instrument.

Northern Ireland.—The constitution of Northern Ireland, based on the modified 1920 Act, has its strict pattern of reserved and transferred powers. In 1928 and 1932 a Northern Ireland (Miscellaneous Provisions) Act had sanctioned agreed additions to the transferred subjects or had otherwise re-drawn the sometimes awkwardly fixed limits of the competence of the Belfast Legislature.[1] Another such Act is passed in 1945 (c. 12).[2] Its first section illustrates the inconveniences which needed to be remedied. The general criminal law and procedure are a matter transferred to the Belfast Parliament ; but the Belfast Parliament could not properly modernize the law of indictments because, if the charges related to coinage or Post Office offences, it would be trespassing into matters not transferred. Henceforth Belfast is to be free to legislate in respect of criminal justice or criminal procedure even though the offence is connected with a non-transferred matter, but she must keep in line with Great Britain in imposing penalties. The new Act also gives full trustee status to Northern Ireland Government loans. Amongst other provisions the Governor of Northern Ireland is allowed to substitute for the Great Seal of Northern Ireland an embossed facsimile of the obverse of that seal. This concession, recalling the United Kingdom provision for use of a wafer great seal under the Crown Office Act of 1877, was to lighten the labour of the Clerk of the Crown in Northern Ireland when he came to issue 49 writs of election and 26 writs of summons to senators at the general election for the Northern Ireland Parliament.

Defence and Police.—The Army and Air Force (Annual) Act makes few changes in the Army Act and Air Force Act which it renews for another year (c. 22). One amendment alters the penalty for the offence of inducing or assisting desertion or absence without leave ; the alternative of a fine not exceeding

[1] See Sir Arthur Quekett's *Constitution of Northern Ireland*, Part II, p. 243. [2] See *ibid.*, Part III, c. ix, p. 158.

£30 is added to the existing maximum sentence of six months' imprisonment on summary conviction.

In view of the employment of police with Control Commissions in Germany and Austria or with the small British mission to Greece, the Police (Overseas Service) Act authorizes their engagement by a Secretary of State. He may make regulations for their government and discipline, their pensions and gratuities. The Act (c. 17*) provides for the prospect of their subsequent service in the home police or in other official posts and also for those members of a home police force who, with the appropriate consents, engage themselves to go overseas.

Police legislation of 1856 and 1857 limited the numbers of Inspectors of Constabulary to three for England and one for Scotland. In view of the vast modern developments of police work the Police (His Majesty's Inspectors of Constabulary) Act (c. 11) removes those limits and leaves to the Secretary of State concerned the decision as to future numbers. The new law contemplates that a chief inspector may be appointed both for England and for Scotland ; where such appointment is made, it will be possible for a single report to be made to the Secretary of State concerned in each country, for presentation to Parliament, in place of the separate reports which every inspector formerly submitted.

Wages.—The regulation of wages continues to attract the legislator's attention. The Trade Boards Act of 1909 first enabled autonomous boards, representative of both sides of industry, to fix minimum wage-rates in a few specified trades. Their orders were replaced during the First World War by Wages Orders issuing from the Ministry of Munitions. In 1918 came two new statutes, one enlarging the number of trades to which the 1909 Act might apply, the other a temporary Wages Regulation Act, brief and unsuccessful. Further landmarks were the Road Haulage Wages Act of 1924, the Holidays with Pay Act of 1938, and the Catering Wages Act of 1943. Now, in 1945, the Wages Councils Act (c. 17) supersedes the Trade Boards Acts and changes trade boards to " wages councils." The Minister of Labour may create a wages council if he considers that no adequate machinery exists for effectively regulating workers' remuneration and that a council is needed. He may similarly order the creation of a council on the application of organizations representing employers and employees or of conciliation boards or similar bodies, if a commission of inquiry so recommends. Apart from this, the Minister may refer to a commission the question of establishing a council if he thinks no adequate machinery exists, or that existing machinery has broken down, and that a reasonable standard of wages will not be maintained. Before he makes a " wages council order," he must give notice of his intention, make a draft available for inspection, and consider any objection sent to him. The Act also authorizes the creation of a " central co-ordinating committee " to " consider whether the field of operation of the wages councils . . . is properly divided between them " and to make recommendations.

The wages councils submit wage regulation proposals (fixing remuneration " generally or for any particular work " and arranging for holidays) which are published for criticism before the Minister makes his " wages regulation order " fixing the " statutory minimum remuneration." A blow is struck at the ancient practice of apprenticeship ; no employer is to receive any payment for an apprentice or learner by way of premium.

Parts of the war-time Conditions of Employment and National Arbitration Order (S.R. & O. 1940, No. 1,305, as modified), made under Defence Regulation 58AA, receive statutory continuation till the end of 1950.

Distribution of Industry.—The Barlow Report on the Distribution of the Industrial Population (1940: Cmd. 6153) and a White Paper on Employment Policy (1944: Cmd. 6527: chap. III, paras. 20–30) led to the Distribution of Industry Act (c. 36).

In the drive for encouraging employment in 1934 a Special Areas (Development and Improvement) Act sought to revive and foster industry in a few selected

black spots of depression. The 1945 Act replaces the former law and substitutes for the old ' special areas ' a more generous list of ' development areas ' which may be revised in three years' time. In these areas the Board of Trade may acquire sites and erect buildings and may take over derelict land to improve the amenities of the neighbourhood. With Treasury consent it may make loans to trading or industrial estate companies with the object of inducing persons to establish or expand business undertakings. Money may also be lent or granted to improve " basic services "—i.e. transport facilities, power, lighting or heating, housing, health and other services. The Treasury, on the recommendations of an advisory committee, may help industrial undertakings in the area. The arrangements for controlling the location of industry, to be found in s. 9, rely perhaps chiefly upon persuasion. Before an industrialist enters into " a contract for the erection of an industrial building forming part of an industrial unit," or begins to erect it, he must give 60 days' notice to the Board of Trade. He may be required to inform the Board of the proposed situation, the proposed industrial process, the estimated aggregate floor space and the estimated number of employees.

Education.—A substantial Education (Scotland) Act amends, without consolidating, a range of statutes going back to 1872 (c. 37). It was hustled through the committee stage upstairs in time to receive the Royal Assent on the eve of the June dissolution. The Act, if allowances be made for the inevitable Scottish variants, has a family likeness to the big English Act of the previous year. There is a similar definition of the duty of every education authority. Adequate and efficient provision must be made throughout every area of all forms of primary, secondary and further education, " including the teaching of Gaelic in Gaelic-speaking areas." Primary education includes nursery schools and classes for children from two years upwards. As in England the duty of parents to provide education suitable to the child's age, ability and aptitude is precisely defined ; there is to be special educational treatment for pupils suffering from disability of mind and body ; and " further " education will include voluntary leisure-time occupation for persons over school age " in such organized cultural training and recreative activities as are suited to their requirements." As in England there are to be " independent schools," arrangements for " handicapped children," medical inspection and treatment, and milk and meals. Education authorities may establish hostels, and may provide a ' child guidance service,' in clinics or elsewhere, for the advice of parents and teachers and for the study of " handicapped, backward and difficult children." With a few exceptions education is to be free of fees. Scotland now for the first time recognizes the appointment of directors of education by local authorities. What the English Act called " county colleges " (part of the system of further education) become " junior colleges " in Scotland. The clauses about religious beliefs and observances, somehow less controversial in a Scottish than in an English Bill, seem also less complicated. A most laudable feature of the Act is the specific repeal of scheduled enactments which have " by lapse of time or otherwise become unnecessary or obsolete," and the concise replacement of several school sites enactments now nearly a century old. This clearance of dead laws assists the consolidation which was to take place in 1946.

Teachers' Pensions.—The definition of contributory service for the purpose of the Teachers (Superannuation) Act, 1925, needs to be brought up to date in view of the new descriptions of schools in England. In 1945 a new Teachers (Superannuation) Act (c. 14) adjusts these matters and also extends the pension scheme to quasi-educational workers performing approved service which is not teaching but which " to a substantial extent involves the performance of duties of an organizing or advisory character in connection with . . . education " and " is service in the performance of which teaching experience is of value." This will cover whole-time work in youth clubs and community centres. Other amend-

ments of the conditions of teachers' pensions include one which will allow a teacher to be seconded for periods up to five years for " some other employment which provides experience of value to teachers " without losing his pension rights.

Family Allowances.—The United Kingdom at last follows other countries[3] in a direction indicated by the White Paper on National Insurance. The Family Allowances Act (c. 41) had to be a Government measure since it involved expenditure, but it owed much to the advocacy of the late Miss Eleanor Rathbone in Parliament and elsewhere. The draftsman packs the gist of it into his first section. Five shillings a week will be paid for each child after the first " for every family which includes two or more children, and for the benefit of the family as a whole." He tucks away in a schedule some difficult provisions governing the circumstances in which a person is to be treated as maintaining a child. Many important matters are left to be prescribed by departmental regulations. " Child " will mean a child who is under the upper limit of the compulsory school age. " Family " will include (1) a man and his wife, living together, and their children: (2) a man not having a wife, or not living with his wife, and his children: and (3) a woman not having a husband or not living with her husband, and her children. In each of these three cases the family includes not only their, his or her issue but also those maintained by them, him or her. There was keen parliamentary debate on the question whether the allowance should belong to the man or the woman. The Act gives it to the wife, where she and the husband are together, though it will be " receivable " by either. The man must be a British subject and the child must be in Great Britain. The effect of separation or desertion in the case of man and wife, and the position of illegitimate or adopted children, are not overlooked. Several sections are needed to exclude or adjust the duplication of the family allowance with other statutory benefits such as an orphan's pension. A child will not be treated as one of the family if removed from the control of its parents.

Industrial Diseases.—Pending another instalment of the White Paper plan of National Insurance (to deal with all industrial injuries) there is a short Workmen's Compensations (Pneumoconiosis) Act, due to the war. Various industrial diseases of slow onset have been treated by statute as injuries due to accident. Schemes have specified the length of prescribed employment necessary before the date of the " injury," the requisite information to be given to the employer and the arrangements for medical examination. These requirements, otherwise essential to a proper scheme, may now be dispensed with to the extent of disregarding a period of war service or war employment (c. 16*).

Public Health.—The Public Health (Scotland) Acts had until recently no occasion to empower the central authority to make regulations for treatment of infectious diseases or for preventing the spread of epidemics where the danger was due to aircraft. As Scotland now has important airports for international traffic, a Public Health (Scotland) Act confers powers of this nature on the lines of s. 143 of the English Act of 1936. The opportunity is taken to consolidate (with amendment) Part IV of the Scottish Act of 1897 and thus to avoid what is sometimes called legislation by reference (c. 15*).

Nurses.—In 1943 Nurses Acts for England and Scotland did something to protect private patients and hospital managements from the ministrations of unqualified nurses and from the supply of unqualified nurses by agencies. The 1943 Acts used the phrase " agency for the supply of nurses." These wide words unintentionally covered such valuable and innocuous organizations as the county and district nursing associations which would consequently have to comply with regulations requiring them to keep detailed records and to obtain a licence from the local authority. A short Nurses Act (c. 6) remedies this oversight by expressly excluding these associations from the 1943 definition of " agency for the supply of nurses."

[3] See *Jour. Comp. Leg.*, vol. xxii, pp. 199–202

Housing.—London, Manchester and Birmingham were among the cities which needed space for temporary houses. In rebuilding on a bombed site, it was inconvenient to put the temporary structures either on that site or on land selected for permanent houses. A built-up city has little virgin land, but there are sometimes open spaces dedicated to the public and not yet laid out. A Housing (Temporary Accommodation) Act allows an open space to be used if an order be made by the Ministry of Health in England or the Secretary of State in Scotland (c. 39). Under peace-time law local authorities could not build on an open public space (unless they set aside equivalent land in exchange) without a provisional order—i.e. an order requiring confirmation by Parliament after a rather slow procedure.

A Building Materials and Housing Act sets up a fund to finance the operations of the Ministry of Works in securing materials and equipment and to assist local authorities (c. 20*). " Building materials " will include, amongst other things, " any structure ready for erection as a building or as part of a building." The sum allotted by statute in 1944 for manufacturing, constructing and erecting structures is raised from 150 to 200 millions. The maximum sum which a local authority may advance or guarantee on a house under the Small Dwellings Acquisition Acts is raised from £800 to £1,500. Lastly there is provision for enforcing the limit of rent or purchase price for four years on a house built under licence.

Town and Country Planning.—As with education, so with planning—Scotland obtains a statute (c. 33) strongly resembling one enacted for England in the previous year. Indeed if the labels in the Town and Country Planning Act of 1944 were translated into Scots, and the sections relating to licensed premises, ecclesiastical property and London were omitted, the English Act is reproduced with fidelity. Scotland, however, is entitled to its own statute and is not to be fobbed off with a version of an Act drafted for English conditions and subjected to a mere ' Scottish application clause.'

England had her own planning problem in the restoration of facilities for the alcoholic refreshments obtainable at public-houses licensed for the purpose. Even by the end of 1943 some 1,600 of such houses had been destroyed or seriously damaged by enemy action. In the reconstruction of towns the Town and Country Planning Act gave the Minister special powers for dealing with areas of extensive war damage, but it could not enable him to rearrange the distribution of licensed premises because the licensing authority (the local justices) could not fix the numbers or the sites. Moreover the Finance Act of 1942 had preserved the rights of licence-holders to reopen where business had ceased owing to war circumstances. A Licensing Planning (Temporary Provisions) Act enables the Home Secretary to designate " licensing planning areas." Licensing planning committees will have the duty—

> " to review the circumstances of their area and to endeavour to secure, after such consultation and negotiation as they may think desirable . . . that the number, nature and distribution of the licensed premises in the area, the accommodation provided thereat and the facilities given thereat for obtaining food, accord with local requirements, regard being had in particular to any re-development or proposed re-development of the area."

The committees may formulate " planning removals " and (by agreement with persons interested) surrenders of licences. After due publication (and, if need be, after local inquiry) the Minister may confirm the proposals. No new licences are to be granted in licensing planning areas without the planning committee's consent. There are arrangements for carrying on business in temporary premises and special provisions for London. The Act (c. 15) will operate till February 23, 1951.

De-requisitioning of Land.—It was stated that the country had spent some 700 millions on factories, airfields, camps, hostels and various defence works

during the war. The existing law might allow the land to be handed back (subject to adjustments) to the private owner with compensation for damage where there was no reinstatement. There were other cases where war works had been constructed under Defence Regulation 50, without depriving the owner of his property—for instance where an anti-aircraft gun had been placed in the corner of a field. There were three classes of works which were not properly covered by the old Defence Act of 1842 and its successors—(*a*) where the Government wanted to retain the site for a continuing purpose (e.g. for hospitals or permanent airfields), (*b*) where it did not want to retain the site but wanted to keep control of it (e.g. the deep shelters constructed underground which might be used for railway development), and (*c*) where it wanted to acquire the site and sell it, in order to turn to account on the taxpayer's behalf some of his money already spent thereon.

The Requisitioned Land and War Works Act, 1945 (c. 43), dealing with these and kindred problems, creates a War Works Commission to report on various matters and decide various questions. The Act gives new temporary powers of acquisition to Ministers, deals with the stopping up and diversion of highways and the removal or otherwise of telegraph lines, creates new temporary procedure for the acquisition of land by local authorities, and generally amends the Defence Acts and the law of compensation. The Act needs to be examined carefully to see how far the Commission's decision is final and how far an aggrieved party can appeal to the courts.

War Damage Assessment.—Legislation in 1943 had allowed an appeal on valuations for war damage to the referees appointed under Part I of the Finance (1909–10) Act, 1910. This tribunal was not wholly satisfactory. A War Damages (Valuation Appeals) Act transfers this appellate jurisdiction to a new tribunal which will be constituted by the Lord Chancellor. There will be a legal president and the other members will be either barristers of seven years' standing or persons expert in the valuation of land appointed in consultation with the Chartered Surveyors Institution (c. 8*).

Road Safety.—Previous statutes required pedal cycles ("bicycles and tricycles not propelled by mechanical power") to have either a red rear lamp or, alternatively, a red reflector and a white surface. A Select Committee of the House of Lords, presided over by Lord Alness, recommended that, during the hours of darkness, cyclists should be obliged to comply with both the former alternatives. The outbreak of war introduced special conditions of obscured lighting. During the war orders made by the Minister of Home Security under Defence Regulation 24 required cyclists to carry red rear lights. Attention was recalled to the Alness report in 1945 when a departmental committee on Road Safety indorsed its recommendations. Accordingly a Road Transport Lighting (Cycles) Act cancels the previous alternatives and substitutes a definite obligation to carry a red rear light and also (*a*) to carry an unobscured and efficient red reflector and (*b*) to exhibit a white surface in accordance with the Minister of Transport's regulations (c. 8). Until a date to be appointed by the Minister, pedal cycles need not show the lights if "stationary owing to the exigencies of the traffic or in order to comply with any traffic signal or direction." This concession (due to the war-time shortcomings of dynamo-operated lighting-sets) is to apply only when the cycle "is as near as possible to the near or lefthand edge of the carriage-way."

Law Reform.—The Lord Chancellor's Standing Committee on Law Reform, consisting of judges, practising barristers and solicitors and university professors, examines alleged defects in the law and suggests remedies. Its Eighth Report (1939: Cmd. 6032) dealt with the common-law rule of contributory negligence. If two motor-cars collided, an injured plaintiff might fail to recover any damages due to the defendant's proved negligence because the defendant might establish that the plaintiff contributed to the accident by his own negligence. Under the Admiralty rule (embodied in the Maritime Conventions Act of 1911) if two ships collide and the owner of one claims damages for the injury caused by the other,

the second ship will not escape liability for its own negligence by saying that the first ship was negligent also. If the Admiralty finds both to blame, it decides the proportion of the fault ; it adds the damages together and fixes the fraction (it may, of course, be half and half) which the two ships must respectively pay. The Lord Chancellor's Committee having recommended that the maritime rule be adopted in common-law cases, the Law Reform (Contributory Negligence) Act sets out the new law in simple terms (c. 28). As originally passed by the House of Lords, there was an exception for Workmen's Compensation Act cases. A Commons amendment, eventually adopted, allows the workman, if he finds that his common-law action, based on alleged negligence, is likely to yield him only a small sum in damages, to pursue his claim under the Workmen's Compensation Act after all.

Limitation of Actions.—The protraction of hostilities and the widespread occupation of territories by Germany and Japan raised questions of the effect of the Statutes of Limitation whereby, to take a simple case, a claim on a simple contract is statute-barred unless brought within six months of the date when the cause of action arose. The rule might be unfair to Norwegians living in Oslo, for example, Dutchmen living at the Hague or Englishmen living in Singapore (all of them technically " enemies " while the enemy's occupation lasted) or to persons or companies who had claims against enemies in Europe or Asia. This difficulty, not so acute in the First World War, was then met by an article in the Treaty of Versailles and a subsequent statute enacted at Westminster. In 1945 a Limitation (Enemies and War Prisoners) Act, foreshadowed in the conclusions of the McNair Committee on Limitation of Actions and Bills of Exchange (1944: Cmd. 6591), suspends the limitation period where a necessary party was an enemy or was detained in enemy territory. The Act (c. 16) takes effect from September 3, 1939, and applies to the Crown.

Criminal Law.—A long overdue Treason Act (c. 44) assimilates the procedure in trials for treason and misprision (i.e. concealment) of treason to the procedure in trials for murder. The existing law contained archaic peculiarities in respect of accessories, the joinder of charges and the proof of overt acts ; the accused had to be supplied ten days before trial with a copy of the indictment, a list of witnesses and (except in one type of treason) details of their addresses and occupations. An Act of 1800, to punish the killing or attempted killing of the Sovereign, made the procedure on charges of that nature the same as on charges for murder. The Treachery Act of 1940, occasioned by the inconveniences of the law of treason, also applied the ordinary procedure of the criminal law. The modern English routine for a fair trial after a preliminary hearing before committing magistrates made it unnecessary to retain the old complications which discouraged the authorities from indicting persons for treason.

War-time Embarrassments.—The Liabilities (War-Time Adjustment) Acts of 1941 and 1944, which protect a debtor embarrassed by war circumstances from the normal fate of bankruptcy, applied to England only. Scotland had not asked for similar legislation. In 1945, however, two fresh considerations caused her to change her mind. The 1944 Act had given creditors and debtors in England the new advantage of equalized debts, Crown debts and demands for local rates ranking level with all other claims without priority ; and the Courts (Emergency Powers) (Scotland) Acts were soon to expire. The Liabilities (War-Time Adjustment) (Scotland) Act, 1945, follows the English pattern with some slight simplification (c. 29).

Local Government.—The machinery for the piecemeal alteration of local government boundaries (under the great Local Government Act of 1933) is superseded by a Local Government (Boundary Commission) Act which establishes Commissioners who will be appointed by the Crown to review areas in England outside London (c. 38). The Minister of Health, after consulting associations of local authorities, is to make regulations prescribing the general principles by

which the Commission is to be guided—a matter already dealt with in a White Paper debated early in 1945. Though the regulations will need approval by resolution of each House of Parliament, their substance is such as might be expected to appear in the statute itself rather than in subordinate legislation.

If the Minister tells the Commission to consider a question of altering areas, it will do so ; it will, if directed, give priority to particular cases. If it decides that an area should be altered, it will make an order to that effect ; if it decides against an alteration, this decision also must be embodied in an order. Orders affecting counties or county boroughs will need parliamentary confirmation. Having made an order, the Commission is not to make a fresh alteration of the area concerned for another ten years, unless satisfied that a substantial change in the distribution of population or some other exceptional circumstances justify reconsideration.

The Representation of the People Act, 1945, and the Elections and Jurors Act (both already mentioned) enlarge the local government franchise to coincide with the parliamentary franchise. Peers are not disqualified from voting at local government elections. The triennial local elections, suspended throughout the war, are to be resumed. This incidentally involves giving the Secretary of State a power to make orders in special circumstances for modifying the Act—for example, to secure the proper rotation of retirements of councillors now that the normal cycle of office is to be resumed. There are special arrangements for the register of electors and for proxy voting by Service voters. Thus the machinery of parliamentary and of local government elections is largely assimilated. A Local Elections (Service Abroad) Act enables an oversea candidate to consent by telegram to his nomination and allows him additional time, if he has succeeded in being elected or has been chosen as mayor or chairman of a council, for accepting office ; further, at the discretion of the returning officer, oversea candidates can have indulgence for delay in paying election expenses or making the statutory returns in that connection. The Act (c. 1*) will expire at the end of 1947.

Local government finance receives attention. It was realized that, at the end of the war, the central authorities would need to borrow for war damage repair, housing, the financing of the Budget deficit and other purposes, while local authorities too would want money for reconstruction plans, housing, new schools and so on. To promote the Government's policy of cheap money and to avoid a scramble, the Local Authorities Loans Act (c. 18) confines local authorities (until the end of 1950) to borrowing from the Public Works Loan Commissioners. The Local Loans Fund available as the sole source for this purpose will be financed out of the Treasury's general borrowings. The Act in effect enables local authorities to borrow as cheaply as the Treasury itself.

When local government officials have suffered through loss of office or lessening of emoluments on the abolition of a local authority or the transfer of its functions, Parliament has always been ready to secure their compensation. The Compensation of Displaced Officers (War Service) Act puts the employee of a local authority who has been absent on war service in the same position as his colleagues who remained at home in their civilian employment (c. 10). If such an employee suffers " any direct pecuniary loss," he can claim compensation. His temporary absence on war service will count as service in his office, in assessing his claim. The principle of the Act is recognized as applicable to public authorities and " public utility undertakers " (bodies authorized by enactment or order to carry on railway, canal, dock, harbour, gas, electricity or water undertakings) ; power is therefore given to apply the Act in these directions by Order in Council.

Finance and Taxation.—The approaching dissolution caused the Caretaker Government to secure the passing of a curtailed Finance Act in June (c. 24), merely to re-impose income tax and surtax, to give further continuance to the hop duties, to relieve small businesses (as promised) in the reckoning of standard

profits for excess profits tax, and to fix the permanent annual charge for the National Debt.

Before Christmas the Labour Government secured the Finance (No. 2) Act, a full-dress statute (c. 13*). Purchase tax is lifted from domestic refrigerators and other kitchen appliances, from the wireless sets of blind people and from materials forming part of an article or ornament placed in a place of religious worship as a war memorial. Ordinary income tax is at 9s. in the pound and the reliefs in the lower ranges are extended. War gratuities are not to be taxed. A concession which some local authorities had been securing by Private Act, enabling them so to arrange their funds and accounts that they exposed a smaller target to income tax (see *Allchin* v. *Coulthard* [1943] A.C. 607), is given as of right to all local authorities. The rate of excess profits tax goes back from 100 per cent. to 60 per cent. The post-war refunds of this tax (as also of income tax) occupy several sections. Part V of the Act, enabling reciprocal agreements with oversea countries to avoid double taxation, is a non-controversial arrangement which the Caretaker Government's Finance Act had been obliged (for want of time) to jettison. Among other technical provisions the arrangements for tax collection in the City of London, where enactments sometimes linger long after their disappearance elsewhere, are brought into conformity with recent developments.

A long and complicated Income Tax Act (c. 32) piles still more amendments upon the principal statute of 1918 ; it carries out proposals on post-war industrial taxation which the Budget speech had foreshadowed. There are new and improved allowances for types of capital expenditure deemed necessary to the re-equipment and revival of industry. The " initial allowance " here in respect of industrial buildings and structures is 10 per cent. (with further " annual allowances ") and in respect of machinery and plant 20 per cent. ; there are initial and annual allowances also for expenditure on mines, oil wells or other sources of mineral deposits of a wasting nature. Agricultural land and buildings, patents, scientific research and " exceptional depreciation " are the subject of other parts of the new Act. It is a field of law into which only specialists dare venture.

The National Loans Act (c. 23) extends the similarly named Act of 1939 so as to authorize the Treasury to raise any money needed for supply for the current year and in addition a sum not exceeding 250 millions. Trustee savings banks are empowered to invest in national loans on a wider scale than before.

A new Export Guarantees Act (c. 9) adds to the sequence begun by the Overseas Trade (Credits and Insurance) Act, 1920, and continued (amongst others) by the Trade Facilities Act, 1926, the consolidating Export Guarantees Act, 1937, and the re-enacting and extending Overseas Trade Guarantees Act, 1939. The new Act increases the Government guarantee limit from 75 to 200 million pounds ; the guarantees for re-exports and for ancillary purposes are doubled. The range of guarantees will now cover the sale of raw materials produced abroad and sold by United Kingdom merchants for shipment direct to buyers without passing through Britain.

Forestry.—The war had caused heavy destruction to British woodlands, especially to private plantations. The independent Forestry Commission, created by statute in 1919, is reconstituted by a new Forestry Act in 1945 (c. 35). There will be a chairman and not more than nine commissioners, appointed by the Crown. Three must have " special knowledge and experience of forestry "; at least one must have " scientific attainments and a technical knowledge of forestry." They are to be subject to the Minister of Agriculture and Fisheries as regards England and to the Secretary of State concerned with agriculture in Scotland. They are to appoint committees for England, Scotland and Wales, to whom their functions may be delegated. The Commission's former powers of acquiring land are to be transferred to the two Ministers. There must be no

compulsory purchase of parks, gardens, pleasure grounds, dwelling-houses, land belonging to local authorities or " statutory undertakers " (such as railways, gas, water or electricity concerns) or land which contains ancient monuments.

Water Supply.—Just as in 1944 the Education Act had imposed a specific duty upon a Minister to work out a national plan, so in 1945 the Water Act (c. 42) declares that

> " It shall be the duty of the Minister of Health to promote the conservation and proper use of water resources and the provision of water supplies in England and Wales and to secure the effective execution by water undertakers, under his control and direction, of a national policy relating to water."

This responsibility of a central authority to prevent the haphazard scramble for water supplies by local competitors is, like much else in the new Act, the outcome of Part I of a White Paper debated early in 1944 and approved without a division. Statutory recognition is given to the Central Advisory Water Committee over which Field Marshal Lord Milne had presided. There will also be, if the Minister so orders, regional Joint Advisory Water Committees, to survey existing consumption, demand and available resources, to estimate future requirements, to formulate proposals and to advise on schemes. Local authorities and " statutory water undertakers " (which term includes any company, local authority, board, committee or other person supplying water under an enactment) may be required to make similar surveys and proposals. The Minister can oblige " any class of persons " abstracting water from any source to keep records and furnish information. Anyone who proposes to sink a well or borehole more than 50 feet deep must first notify the Privy Council Committee for Scientific and Industrial Research, and must keep a journal with measurements of strata and water levels, and allow any person authorized by that Committee to inspect progress and take specimens.

The Public Health Acts had obliged local authorities to provide a pure and wholesome supply ; an Act of 1944 had obliged them to pipe water to all rural localities where there were houses or schools. The new Act obliges them to take the pipes to such points " as will enable the houses or schools to be connected thereto at a reasonable cost." There are stiffer requirements that new houses be given a proper domestic supply and that occupied houses be connected to the pipe system.

Characteristically haphazard growth had developed in England two classes of water undertakings. The older class, operating under some special local Act often shaped to fit a parliamentary bargain, had its powers closely restricted by the terms of its Act which authorized (but did not compel) the carrying out of particular works. A body of this class might find itself unable even to dig another well on its own land without going to Parliament for fresh *ad hoc* permission. The more modern class has operated under the general powers of the Public Health Acts, subject to departmental control. Being limited to the exercise of its powers for the benefit of the borough or district, it has not easily fitted itself into the ideal regional scheme which planning and engineering considerations would recommend. The new Act endeavours to co-ordinate the two classes as parts of a national whole and to assimilate their powers. It contains copious authorizations for the Minister to effect by order what hitherto could not be done without parliamentary enactment. Thus he can approve or compel the alterations of areas of supply ; he can compel undertakings to combine. He can also prohibit the sinking (otherwise than under licence) of fresh wells in areas where control is needed.

The standard clauses in local Acts for water supply mostly date back to the Waterworks Clauses Consolidation Act of 1847 whereof the preamble recited that—

> " it is expedient to comprise in one Act sundry provisions usually contained

in Acts of Parliament authorizing the construction of waterworks for supplying towns with water, and that as well for avoiding the necessity of repeating such provisions in each of the several Acts relating to such undertakings as for ensuring greater uniformity in the provisions themselves . . ."

To the model clauses devised in 1847 for incorporation in the " special Act " of a particular undertaking a few more clauses were added in 1863. Otherwise there was no revision by general Act. Now in 1945 the Water Act supersedes the 1847 and 1863 Acts and establishes, in its Third Schedule an up-to-date code suitable for uniform application (with any necessary modifications) by order of the Minister. This code is based on the Second Report of the Milne Committee, presented in April, 1939 (Cmd. 5986); it had already been before Parliament in 1939 and 1943, but there was then no time to pass it into law.

Finally, amongst other noteworthy matters, some improved provisions for byelaws to prevent waste, misuse, contamination or pollution contain the condition that the byelaws will cease to have effect after ten years, though the Minister may by order prolong the period. A similar feature, intended to ensure progressive legislation, is to be found in the Local Government Act of 1933 and the Public Health Act of 1936.

Special Procedure Orders.—Something quicker and cheaper than the provisional order machinery had been asked for in 1944 in the White Paper on a National Water Policy (Cmd. 6515). The point was referred to afresh in an answer by the Prime Minister to a convenient question in the House of Commons on June 20, 1944 (Hansard, 401, col. 33–5). At the end of 1945 the new Parliament passed the Statutory Orders (Special Procedure) Act which sets up machinery for all orders which in future enactments are described as orders " subject to special parliamentary procedure." The provisional order procedure in the Town and Country Planning Act, 1944, the Local Government (Boundary Commission) Act, 1945, and the Water Act, 1945, is to be converted into this new special procedure ; on address from both Houses of Parliament the new procedure may also be substituted for the provisional order procedure prescribed in any previous statute.

The new machinery is highly technical. The Chairman of Committees in the House of Lords and the Chairman of Ways and Means in the Commons are given responsibilities not unlike those which the Private Legislation Procedure (Scotland) Act, 1936, imposes upon them. The Minister who makes the order lays it before Parliament with a certificate that all necessary preliminaries of notification in the *Gazette* and of local inquiry or otherwise have been complied with. During the next 14 days a petition may be presented against the order. Petitions are classified as either petitions for amendment (specifying the particular amendments asked for) or petitions of general objection. The Chairmen consider each petition after the 14-day period and certify (if satisfied) that it is proper to be received and that it is a petition for amendment or a petition of general objection, as the case may be. The distinction between the two classes of petition is important. The intention of the Act is that orders shall not be held up on grounds of policy where Parliament has already laid down the general lines of policy. If either House, within 14 days after the Chairmen have presented their report on an order, resolves that the order be annulled, the order is killed, but without prejudice to the laying of a new one. On consideration of a motion for annulment, either House may refer a certified petition of general objection to a Joint Committee. If no resolution for annulment has been passed within the 14 days, a petition for amendment stands referred to a Joint Committee, but a petition of general objection (except in the circumstances already mentioned) is not. The Joint Committee, after considering the petition, may report the order without amendment or with such amendments as they think proper. If the petition is one of general objection, they may either report the order with amendments or report that it

be not approved ; in the latter event it will not operate unless confirmed by Parliament.

If the order is reported by the Joint Committee *without* amendment, it takes effect from the date when the report is presented to Parliament (or from any later date specified in the order). If it is reported *with* amendments, it takes effect from such date as the Minister may, by notice given in the prescribed manner, determine. If the Minister does not feel able to accept the amendments, he can either withdraw the order or else submit it to Parliament for confirmation in the form of a Bill.

In the last-mentioned case the new ' special procedure ' will be no quicker than the old ' provisional order ' procedure. But, in the simplest case of all—namely where, during the ' resolution period,' neither House has passed a resolution for annulment and no petition stands referred to the Joint Committee, the order will operate from the expiration of that period (or such later date as is specified in the order); thus the opportunity of parliamentary control will have been preserved and little time lost.

Miscellaneous.—Of the other statutes of 1945, several of which are annuals in common form, two may perhaps be mentioned.

An emergency Act of 1939 had enabled Orders in Council to improvise arrangements convenient to chartered and other bodies, especially for the postponement of elections. These Orders in Council saved the bodies concerned the expense and trouble of promoting temporary legislation or applying for amending charters. But it was not clear whether the Orders could provide for the holding of elections after the end of the postponement, or prescribe the term of office and date of retirement of the persons elected. The Chartered and Other Bodies (Resumption of Elections) Act (c. 6*) now removes doubts and validates elections held under " abnormal conditions."

Lastly the Welsh Church (Burial Grounds) Act ends—it may be hoped—an ancient controversy. The Welsh Church was disestablished in 1920 under a statute passed in 1914 and suspended for the period of the First World War. The 1914 statute required Welsh Church Commissioners to transfer to different authorities the different categories of burial grounds. What were popularly described as ' ancient burial grounds ' were to go to the local burial authority, or, if there were no such authority, to the borough or urban district councils or parish councils. Some of the small local authorities refused to accept the transfer ; they could spare no money for what was not a revenue-producing possession. The new Act (c. 27) transfers these untransferred burial grounds to the Representative Body of the Church in Wales created under s. 13 of the statute of 1914. This Body must maintain them in decent order, and, except where the ground is one which has restrictive conditions under some trust or private benefaction, no discrimination is to be made between the burial of members of the Church in Wales and the burial of other persons. Even so apparently simple a provision as this is must have given the draftsman no little difficulty ; so complicated is the burial law of England and Wales.

Delegated Legislation.—The total of Statutory Rules and Orders registered under the Rules Publication Act during 1945 was 1,706, of which 1,179 were general and 527 local. Thus the progressive decline from the peak year of 1942 is arrested and a period of increase sets in. There had been 1,483 in 1944.

The annual volumes of S. R. & O. for the year, officially published with valuable tabular material and indexing, were not available till late in 1946. They consist, as usual since 1940, of a first volume containing instruments made under non-emergency powers and a second volume containing the Defence Regulations and amendments and the orders made under those regulations, the grandchildren of the Emergency Powers (Defence) Act, 1939. The significance of this subordinate legislation needs no emphasis. Here, for instance, one finds the Local Government (Boundary Commission) Regulations which set out in a schedule

the all-important general principles which are to guide the Commission in discharging its functions under the Act of 1945. Even to-day it occasions surprise when matters of principle are merely scheduled to a set of regulations instead of being formulated in the parent statute itself.

The Select Committee of the House of Commons which scrutinizes S. R. & O. continued its work and commented in a Special Report to the House on the lax observance of the duty to lay documents before Parliament " as soon as may be " as well as on the practice of giving documents a date other than the date on which they are signed. The Committee, of course, cannot enter into the merits or policy of delegated legislation.

2. NORTHERN IRELAND

[*Contributed by* W. A. Leitch, Esq.]

The 24 Acts passed by the Parliament of Northern Ireland in the year 1945 deal with a wide variety of matters ranging from the prevention of bee pests to the supply of electricity.

Bee Pest Prevention.—The Bee Pest Prevention Act (c. 1) provides for the compulsory registration of all beekeepers and for the payment of compensation in respect of the destruction of infected stocks. The measure is in advance of any step of its kind previously taken in Great Britain where Defence Regulation 62BB, afterwards replaced by s. 11 of the Agriculture (Miscellaneous Provisions) Act, 1941, gave limited powers of obtaining information, inspection and destruction of infected combs, bees and appliances. Indeed New Zealand seems to be the only country which has hitherto gone further in the direction of controlling pests among bees than Northern Ireland goes in this statute.

Election Arrangements.—The Representation of the People Act (c. 5) arranges for the preparation of a special register called the " May 1945 " register to be used at any parliamentary election initiated after April 1, 1945, and before the expiry of the register. The latter event is to take place on the completion of the general election held when the Parliament of Northern Ireland is first dissolved after the passing of the Act (March 28, 1945) or March 1, 1946, whichever is earlier date.

Housing.—Fresh provision is made (c. 2) for the accommodation of " workers." The definition of " workers " in s. 30 of the Act is not without interest. It includes all persons working for wages ; persons not working for wages but working at some trade or handicraft without employing others except members of their own families ; and persons whose income in any case does not exceed an average of eight pounds a week ; and includes the families of any such persons who may be residing with them. The Act sets about the housing problem in two ways. Part I provides for financial assistance by the Government to local authorities towards the cost of houses erected by the authorities in pursuance of a scheme approved by the Ministry of Health and Local Government. A change in the general law of housing is made in s. 7 which constitutes the council of each rural district a local authority for the purposes of the Housing of the Working Classes Act, 1890, and applies the Housing Code, formerly applicable only to urban districts, to rural districts. S. 8 indicates that the Labourers Acts (Ireland), 1883 to 1939, under which rural authorities have hitherto provided housing accommodation, will not be further continued beyond December 31, 1945, when they are due to expire. Another change effected by the Act (s. 9) is the extension of the power of a local authority to sell or lease land acquired by the authority for housing purposes, so as to include sale or lease for the provision of factories, workshops, places of worship and places of recreation.

The second attack on the housing problem is made in Part II of the Act. This provides for the setting up of a public authority to be called " The Northern

Ireland Housing Trust," which is to be a body corporate with perpetual succession, a common seal and capacity to hold land without licence in mortmain. A document purporting to be issued by the Trust is to be received in evidence as such further proof unless the contrary is shown. The general duty of the Trust is expressed in s. 13(1) as being " to secure, in co-ordination with local authorities, the provision of housing accommodation for workers." To enable this duty to be performed extensive powers are given, these being set out in the First Schedule. For example, power is given to construct new houses for the accommodation of " workers " in urban and rural districts ; to acquire existing houses ; to provide fixtures and fittings for houses acquired by or under the control of the Trust; to lay out streets, roads and open spaces ; to hand over any streets or roads to a local authority when completed ; to undertake any lawful trust which has for its object the provision of housing accommodation for workers in Northern Ireland or any similar object. The power to acquire and deal with land is contained in s. 14. It is a power to purchase by agreement or to take a lease of any land required for the Trust's purposes. A power of compulsory acquisition is also given which is to be exercised by the vesting order procedure contained in the Local Government Act (Northern Ireland), 1934, with some slight modifications set out in the Second Schedule. If directed to do so by the Ministry the Trust is to make schemes to enable tenants of the Trust to purchase or take long leases of their houses. Parliament realizing, in its wisdom, that the management of large housing estates cannot be carried on without money, has provided in ss. 16 and 17 for grants and loans to be made by the Ministry of Health and Local Government, with the consent of the Ministry of Finance, to the Trust. Part III of the Act contains provision relating to the terms on which housing accommodation is to be let by the Trust, and by local authorities under the Housing Acts.

Water and Sewerage.—The Water Supplies and Sewerage Act (c. 17) makes Government contributions available to local authorities or statutory water undertakings in connection with water supply or sewerage schemes ; it places upon local authorities the duty of providing, so far as is possible, a supply of water for domestic purposes in all parts of their districts, and enables them to make water supplies available for non-domestic purposes. The Act also seeks to ensure that new houses and existing occupied houses are provided with an adequate water supply and the Ministry of Health and Local Government is given certain powers in the event of default by a local authority or statutory water undertaking in carrying out its duties. That Ministry is to be empowered to vary by order the district of supply of a local authority or statutory water undertaking, and to authorize a statutory water undertaking to construct or acquire and maintain waterworks and ancillary works, or to borrow money for capital expenditure. A statutory water undertaking is placed in the same position as a sanitary authority in regard to the compulsory acquisition of land, by applying the machinery of the Local Government Act (Northern Ireland), 1934, for that purpose.

Electricity Supply.—The Electricity Board for Northern Ireland has its borrowing powers increased to £300,000 by the Electricity (Supply) Act (c. 24). The Act also substitutes the calendar year for the financial year (i.e. April 1 to following March 31) for the purpose of calculating the costs, charges and allowances appertaining to generating stations and main transmission lines acquired or constructed by the Ministry of Commerce under the Electricity (Emergency Supplies) Act (Northern Ireland), 1942. The purpose of this change is to simplify administrative procedure by making the accounting year coincide with the normal operating year.

Local Government.—A short Local Government (Finance) Act (c. 3) raises to £90,000 the annual grant which may be paid out of voted moneys towards the cost of the maintenance of public mental hospitals in Northern Ireland. Under s. 1 of the Local Government (Finance) Act (Northern Ireland), 1940, this grant

is allocated between the public mental hospitals (at present six in all) on the basis of the number of patients in each hospital.

The Local Authorities (Temporary Provisions) Act (c. 23) postpones the elections of members of local authorities while the Act is in force, and continues in office existing members until elections are held after the expiration of the Act. Provision is also made for a similar postponement of elections to the following offices in a local authority, lord mayor, mayor, chairman, vice-chairman and deputy vice-chairman. The Act is to continue in force until September 1, 1946.

Under the Belfast County Borough Administration Act (c. 8) the functions taken from Belfast by the 1942 Act of the same name are restored.

Government Loans.—Borrowing by local authorities and general matters relating to loans from the Government Loans Fund are dealt with by the Government Loans Act (c. 11). The Ministry of Finance is given power in s. 8 to reduce the interest on loans from the Government Loans Fund if the position in respect of capital and income of that Fund justifies the step being taken.

The main object of the Development Loans Act (c. 20) is to render more attractive the terms of development loans to farmers and fishermen, and of loans for the improvement of small harbours. The purposes for which such loans may be made are outlined in the Schedule to the Act, and the intention is that the rates of interest to be charged shall correspond with those in operation in Great Britain for loans of a comparable nature. Loans of a type falling within the ambit of the Act have heretofore been issued to a limited extent from the Government Loans Fund, but as the statutory and administrative arrangements in connection with this Fund are primarily directed to the issue by the Ministry of Finance of loans to local authorities, it is considered desirable that an extension of development loans policy should be associated with the devolution of administrative arrangements relating to individual agricultural and fishery loans upon the Ministries directly associated with such loans, viz., the Ministries of Agriculture and Commerce.

Industrial Development.—The former New Industries (Development) Acts (Northern Ireland) of 1937 and 1944 are repealed and replaced by the Industries Development Act, 1945 (c. 12). This is somewhat wider in scope in that it provides for government assistance of established industries, for the purpose of their expansion and development, as well as of new industries. Further the Act gives power to the Ministry of Commerce to acquire sites and premises for sale or lease to persons who propose to carry on undertakings likely to create employment. No such power was given under the earlier legislation. Financial assistance to industries under the Act may take the form either of annual grants by the Ministry of Commerce with the approval of the Ministry of Finance or loans by the Ministry of Finance on the recommendaiton of the Ministry of Commerce. Before giving or recommending financial assistance the Ministry, which is to have the assistance of an advisory committee appointed by the Minister, must be satisfied (*a*) that the industrial undertaking is likely to create employment in Northern Ireland, (*b*) that it needs financial assistance to secure establishment and initial operation, or in the case of an established undertaking, development, and (*c*) that there are good prospects of the undertaking ultimately being carried on without further assistance. S. 2 empowers local authorities to grant exemption from rates for a period not exceeding ten years to an undertaking whose establishment has been assisted under the Act. An established undertaking whose development had been assisted would not appear to come within this section. To enable it to provide sites and buildings the Ministry of Commerce is given power to acquire land and premises either by agreement or compulsory purchase. It may also take leases and develop land in carrying out the purposes of the Act. Attention must be drawn to s. 3 (3). Where the Ministry finds that land acquired under the Act is not ultimately needed it may be disposed of, subject to notice being given of the Ministry's intention in the *Belfast Gazette* ; subject also, in the case

of land compulsorily acquired, to a right of pre-emption at a price not exceeding that paid by the Ministry, which is given to the former owner. This right is exercisable within one month from the date of publication of notice by the Ministry in the *Gazette*. The compulsory purchase machinery provided in the Act is a modified form of the vesting order procedure contained in the Local Government Act (Northern Ireland), 1934. An important restriction on the Ministry's power to acquire land compulsorily is contained in s. 4 (6) which provides *inter alia* that it shall not acquire otherwise than by agreement " any building or premises in which substantial and continuing employment is being given." Where the making of a vesting order is opposed by a person interested and an objection is lodged within a time to be specified by the Ministry s. 4 provides that before proceeding further the Ministry is to refer its proposals to a body called the Sites Commission, set up under s. 5 of the Act, whose duty it will be after holding an enquiry to decide whether, having regard to all relevant considerations, the vesting order should or should not be made. The Commission may decide that part only of land which the Ministry proposes to acquire shall be taken. It will not be concerned with objections as to compensation payable, these being dealt with by an official arbitrator in accordance with the provisions of the second part of the Schedule. The Sites Commission, whose decision is to be final and conclusive, is to consist of (*a*) a practising barrister of not less than ten years' standing who is to be the chairman, (*b*) a member of the Royal Institute of British Architects of not less than ten years' standing, and (*c*) a member of the Chartered Surveyors' Institute of similar standing. The appointments are to be made by the Lord Chief Justice. S. 6 gives powers to the officials of the Ministry, for the purpose of selecting suitable sites, and to the members of the Sites Commission in connection with any enquiry to enter and inspect any land. S. 9 requires that details of the proposed erection of any building required for the purposes of an industrial undertaking shall be furnished to the Ministry and imposes penalties for the giving of any false information in respect of the erection of any such building.

Wages Regulation.—Like the similarly named statute enacted by the United Kingdom in 1945, the Wages Councils Act (Northern Ireland) (c. 21) has three main objects:—

(i) To re-enact the Trade Boards Acts (Northern Ireland), 1923 to 1944, and in so doing to give certain additional powers to Trade Boards, which will be re-named " Wages Councils."

(ii) To provide additional powers whereby a Wages Council can be established subject to a recommendation by an independent commission of inquiry where the commission is of opinion that voluntary machinery is not adequate or is likely to become inadequate and as a result a reasonable standard of remuneration is not being or will not be maintained.

(iii) To continue with minor modifications the provisions of Part III of the Conditions of Employment and National Arbitration Order (Northern Ireland), 1940, from the date on which that Part ceases to have effect until December 31, 1950. This will continue the obligation on employers to observe terms and conditions of employment not less favourable than the recognized terms and conditions in the trade or industry in the district. The obligation will not, however, apply in relation to any worker in respect of his employment during any period during which his remuneration is fixed by statutory wage-fixing machinery.

Work for the Disabled.—The Disabled Persons (Employment) Act (c. 6) seeks to ameliorate the position of the person who " on account of injury, disease, or congenital deformity is substantially handicapped in obtaining or keeping employment, or in undertaking work on his own account." Provision is made for vocational training and industrial rehabilitation of disabled persons. A register of such persons is to be kept by the Ministry of Labour. From the legal point

of view s. 9 is important. It imposes upon employers of more than twenty persons (or such smaller number as the Ministry may specify by order) the duty of employing a quota of persons registered as disabled. The quota is to be such percentage of the total number of employees as the Ministry may determine after consultation with employers' and workers' organizations. S. 12 provides for the designation of particular classes of employment by the Ministry as being specially suitable for disabled persons. When vacancies occur in these classes they are to be filled only by registered persons unless special exemption from this section is granted to the employer by the Ministry or he is under a contractual or statutory duty to employ a non-registered person. S. 14 imposes on employers the duty of keeping records relating to the disabled persons in their employment. Penalties are provided for breaches of duties created by the Act. A central advisory council and district committees are to be set up to advise the Ministry in the operation of the Act, which is to come into operation on such day or days as the Governor may by Order in Council appoint.

Family Allowances.—The object of the Family Allowances Act (c. 19) is the payment out of moneys provided by Parliament of an allowance for each family at the rate of five shillings for each child except the first or only child. It follows closely the Family Allowances Act, 1945, of the United Kingdom.

Criminal Justice.—The Indictments Act (c. 16) is technical in character and is designed to shorten and simplify the cumbrous and archaic forms of indictment at present in use. It follows closely the lines of the Indictments Act, 1915, which did not apply to Ireland, and, as in the Act of 1915, makes provision for the carrying out of further reforms through the medium of Rules of Court made by an expert Committee. This Committee is to be appointed by the Lord Chief Justice and will consist of two Supreme Court Judges, a county court Judge or Recorder, a Clerk of the Crown and Peace and one other person having experience in criminal procedure. The Act also provides that the Rules made by the Committee are to be laid before each House of Parliament.

For the legal practitioner and student perhaps the most important statute of 1945 is the Criminal Justice Act (Northern Ireland) (c. 15). This is a comprehensive measure effecting many improvements in the administration of the Criminal Law in Northern Ireland by removing technical difficulties and by simplifying the procedure in criminal cases. S. 1 extends the criminal jurisdiction of courts of quarter sessions, of which a legally qualified Chairman is the sole judge (assisted in appropriate cases by a jury). S. 2 replaces s. 12 of the Summary Jurisdiction and Criminal Justice Act (Northern Ireland), 1935 (in this note referred to as " the Act of 1935 "), and also enlarges the powers of courts of summary jurisdiction to deal summarily with indictable offences. In reliance partly upon the power conferred by s. 1 of the Northern Ireland (Miscellaneous Provisions) Act, passed by the United Kingdom Parliament in 1945, the extended jurisdiction includes certain offences connected with matters " reserved " to the Parliament at Westminster under the Government of Ireland Act, 1920. For example, the extended jurisdiction includes offences under ss. 50 to 56 of the Post Office Act, 1908. The section also simplifies the procedure to be adopted by courts of summary jurisdiction in indictable offences which may be triable summarily, and it is clear that the framers had in mind the difficulties caused by the decisions in *Rex* v. *Grant*, 26 Cr. App. R. 8 and *R.* v. *Sheridan* [1937] 1 K.B. 223. The section also attempts to clarify certain specific procedural difficulties which arose under s. 12 of the Act of 1925 both by giving statutory effect to judicial decisions on the operation of that section (notably the case of *Crozier* v. *Montgomery*, 1945, N.I. 15). Under s. 3 a court of summary jurisdiction when returning a person for trial for any misdemeanour whatsoever is to have a discretion as to whether or not it should admit him to bail or commit him in custody. S. 16 of the Petty Sessions (Ireland) Act, 1851, which conferred a discretion as to misdemeanours, the costs of the prosecution of which was allowed out of the

county rate or fund, has to a large extent become inoperative because the statutory provisions for payment of costs out of the county rate or fund have been abrogated by s. 41 of the Local Government Act (Northern Ireland), 1934. S. 4 gets over the difficulty, recently apparent in England, that the King's Bench has no inherent jurisdiction to grant bail to a convicted person. It gives an appellant power to apply to the High Court where he is unable to obtain his release because a court of summary jurisdiction has either refused to release him from custody or has fixed bail at an excessive sum. S. 5 is purely procedural but s. 6 is a new departure in that it empowers a resident magistrate or justice of the peace to release on bail a witness who has been arrested under paragraph 1 or paragraph 2 of s. 13 of the Petty Sessions (Ireland) Act, 1851, for neglect or refusal to obey a witness's summons issued under that section. This will operate in case of an arrested witness, while, at the same time, providing adequate means for securing his due attendance at an adjourned hearing. S. 7 makes provisions with regard to venue in indictable offences and follows s. 11 of the English Criminal Justice Act, 1925 (in this note referred to as " the Act of 1925 "). The latter section appears to have had its origin in one of the recommendations of a Committee appointed by Lord Birkenhead when Lord Chancellor to consider the desirability of introducing changes in the procedure and practice of the criminal law with a view to effecting improvements and economy in its administration (Cmd. 1813). S. 8 amends s. 24 of the Act of 1935 as to the division of the county court to which appeals should be brought. Its effect is to restore the position which prevailed under the Act of 1851. This should obviate the difficulty to which the words " for which the court of summary jurisdiction acted " in paragraph (a) of s. 24 (3) of the Act of 1935 sometimes give rise. (See *Rex* (*Kiernan*) v. *McGeough*, 1939, N.I. 49). The object of ss. 9 and 10 is to enable a question of jurisdiction arising in procedure before a court of quarter sessions on appeal or before a court of summary jurisdiction to be made the subject of appeal by way of case stated. At present such a question can often only be determined by the cumbersome method of making application for one of the prerogative writs. S. 11 makes more workable provision for suspension of sentence when appeal is taken by way of case stated. S. 12 gives a right to appeal against an order of a court of summary jurisdiction binding any person to keep the peace or to be of good behaviour and s. 13 empowers a person who is called on to show cause why he should not be so bound, to give evidence. S. 43 (13) of the Criminal Justice Administration Act, 1914, empowered such a person to call witnesses and tender evidence, but it did not expressly give him the right to be examined himself. In addition s. 13 confers on a court of summary jurisdiction the power to award costs and witnesses' expenses on applications to bind to the peace, etc. The object of s. 14 is to bring the existing procedure (which is regulated by s. 14 of the Petty Sessions (Ireland) Act, 1851) on the preliminary investigation of an indictable offence by a court of summary jurisdiction into line with that which prevails in England by virtue of s. 12 of the Act of 1925. The section is necessarily somewhat lengthy, but the only change of substance it makes is to require the court to impress on the accused that he is entitled to give evidence (which, of course, he could not do when the provisions of s. 14 of the Act of 1851 were passed), or that he may call witnesses. S. 15 is intended to reduce the expense of criminal trials by rendering the attendance of a witness, whose evidence is merely of a formal nature, practically unnecessary. Ss. 16 and 17 follow the main provisions of ss. 6 and 7 of the Criminal Law (Amendment) Act, 1867, which did not apply to Ireland.

After a group of miscellaneous procedural clauses, s. 22 attempts to reduce the opportunities which a person suspected of an offence under the Prevention of Corruption Acts may have of absconding before the direction of the Attorney General has been obtained—a matter of significance in a country with a land frontier. The section enables the person accused to be charged before, and

remanded by, a court of summary jurisdiction, but provides that further proceedings shall not be taken without the consent of the Attorney General. There is a similar procedure at present for prosecutions under the Official Secrets Acts (see s. 8 of the Official Secrets Act, 1911).

S. 23 effects a technical amendment in simplification of the procedure in regard to the service of notice on an application to estreat a recognizance. S. 24 repeals and re-enacts with considerable modifications the Vexatious Indictments Acts, 1859. The modifications incorporate the substance of s. 1 of the Criminal Law (Amendment) Act, 1867, which did not apply to this country and the effect of which was to allow an indictment for an offence to which the Act of 1859 applied to be presented if it was founded on facts or evidence disclosed in depositions or examinations taken before a court of summary jurisdiction by which an accused person was returned for trial. The present section is also drawn so as to enable an additional indictment to be sent up if such indictment is based on such facts or evidence, whereas s. 1 of the Act of 1867 only provided for additional counts. Ss. 25 and 26 adapt the provisions of the Infant Life (Preservation) Act, 1929. S. 27 widens the definition of ss. 1 and 18 of the Forgery Act, 1913, in the same manner as was done in England by s. 35 of the Act of 1925. The object of s. 28 is to enable public prosecutions to be instituted in cases of common assault in a proper case without being fettered by the necessity of first securing a refusal to prosecute from the person assaulted. S. 29 follows the provisions of s. 41 of the Act of 1925. S. 30 enacts provisions similar to those contained in s. 1 of the English Penal Servitude Act, 1926, which empowers a court to substitute penal servitude for consecutive terms of imprisonment. The section should normally operate in favour of the offender rather than otherwise. S. 31 provides that sentence of death is not to be passed on persons under the age of eighteen. It follows s. 53 of the Children and Young Persons Act, 1933, and, like that section, applies to sentences of death imposed for capital offences generally. This would include treason—a subject which would, apart from the provisions of s. 1 of the Northern Ireland (Miscellaneous Provisions) Act, 1945, be outside the powers of the Parliament of Northern Ireland. Ss. 32 and 33 are similar to ss. 1 and 2 of the Sentence of Death (Expectant Mothers) Act, 1931. S. 34 abolished minimum penalties when sued for in courts of summary jurisdiction. The section is intended to give to such courts a greater discretion in individual cases and its terms are complementary to the provisions of s. 34 of the United Kingdom Finance Act, 1935, which abolished minimum penalties imposed by enactments relating to reserved revenue. S. 35 is intended to simplify the procedure in courts of assize and quarter sessions for the recovery of fines and sums due under forfeited recognizances. Provisions on similar lines were included in a Criminal Justice Bill introduced in the United Kingdom Parliament in 1939. S. 36 gives a court, by which a person is convicted of an indictable offence, a general power to order that costs of the prosecution be paid by the defendant. In so far as felonies are concerned this power already exists by virtue of s. 3 of the Forfeiture Act, 1870, but under the present section similar powers will be exercisable by the court in respect of misdemeanours. A power to award costs in misdemeanours has existed in England since 1908. S. 37 abolishes the presumption of coercion of a married woman by her husband.

Under s. 38 a resident magistrate or a justice of the peace may issue a search warrant to a police officer or constable, enabling such officer or constable to search any premises or place which he has reasonable ground for suspecting are being used as brothels. S. 39 permits juries to separate on a trial for felony in the same manner as they are now permitted to separate on a trial for a misdemeanour. S. 40 provides for the continuance, if the parties so consent, of a criminal trial where a juror dies or becomes incapable, provided the number of the jury is not reduced by more than one. Ss. 41, 42 and 43 make provision for the

defence of poor persons in much the same manner as provided by the Poor Prisoners Defence Act, 1930.

Summary Jurisdiction.—The law relating to separation and maintenance orders issued by courts of summary jurisdiction is extended and brought up to date by the Summary Jurisdiction (Separation and Maintenance) Act (c. 14). S. 1 specifies the circumstances in which a married woman may apply for an order under the Act. In the case of physical violence by her husband the court must be satisfied that her future safety is in peril before it can make the order. S. 2 introduces a new principle in Northern Ireland by specifying the circumstances in which a husband may obtain an order of separation and s. 3 deals with the various orders which may be made by a court of summary jurisdiction under the Act. S. 3 of the Bill as originally introduced provided quite effectively for the payment of allowances in respect of the children of the marriage. The unfortunate effect of a private Member's amendment was, however, to nullify this part of the draftsman's work. In consequence provision has had to be made by an Act of 1946 for the amendment of the Act in this vital aspect (see s. 3 of the Summary Jurisdiction (Miscellaneous Provisions) Act (Northern Ireland), 1946, which minimizes the inconvenience to the profession by providing for the reprinting of the earlier Act as amended.

Poisons and Pharmacy.—Stringent provisions relating to the sale of medicines are contained in Part I of the Medicines, Pharmacy and Poisons Act (c. 9). The advertisement of articles for treatment of diseases like cataract, diabetes, epilepsy, paralysis and tuberculosis is forbidden. The list of diseases is the same as in the United Kingdom Act of 1941, with the addition of cancer (already covered by the United Kingdom Act of 1939). Part II deals with the registration and qualification of chemists. S. 12 provides for the setting up of a statutory committee to deal with cases of misconduct by registered pharmaceutical chemists, the committee being given power to order a person's name to be struck off the register if it thinks fit to do so. Ss. 25 to 30 and the Third Schedule carry out a revision of the Poisons Code.

Lighting of Vehicles.—Under the Motor Vehicles and Road Traffic (Amendment) Act (c. 18) it now becomes obligatory on a pedal cyclist to carry a red rear light during the hours of darkness in addition to a red reflector and a white surface. The requirement of a red rear light is not to come into force until such day as the Ministry of Commerce may by order appoint. Provision is also made in the Act for relieving cyclists from the obligation to display lights when their cycles, whether propelled by mechanical power or not, are being wheeled by a person on foot as near as possible to the edge of the carriage-way and in the case of pedal cycles when they are stationary owing to the exigencies of the traffic.

Expiring Laws Continuance.—New additions in the Schedule to the Annual Act (c. 13) are the Housing (Requisitioning of Premises) Act (Northern Ireland), 1944, the continued operation of which is still necessitated by the prevalent housing conditions, and the Pensions (Increase) Act (Northern Ireland), 1944. The Labourers Acts (Northern Ireland), 1883 to 1939, which on many occasions have been continued in this Act have been allowed to lapse in consequence of s. 8 of the Housing Act (c. 2 above). The Local Authorities and Jurors Books (Temporary Provisions) Act (Northern Ireland), 1940, has also been omitted from the Schedule in view of the changed conditions affecting local government elections and preparation of jurors books.

3. ISLE OF MAN

[*Contributed by* His Honour R. D. Farrant, *First Deemster and Clerk of the Rolls.*]

The following are summaries of the principal Acts passed by Tynwald in the year 1945.

Income Tax.—By the Income Tax (Appropriation) Act, 1945, the Government out of proceeds of Manx Income Tax appropriated a sum of £250,000 by way of gift towards the cost of the present war.

Cattle Diseases.—By the Cattle Diseases (Prevention) Act, 1945, the total value to be paid in compensation for a diseased animal that had been slaughtered and which had previously been limited to certain sums was made unlimited according to the valuation to be made.

Local Government.—By the Local Government Amendment Act, 1945, certain sanitary provisions were made a statutory obligation in town, village or special drainage districts and power was given to the Local Government Board to exercise the powers of the town, village or special drainage districts. Provision was also made for the maintenance of dependents of tubercular persons who were undergoing domiciliary treatment, and certain other amendments made in connection with the law relating to Public Health.

Dairies.—By the Local Government Milk and Dairies Amendment Act, 1945, amendments were made to prohibit the importation of tuberculin into the Island except to qualified medical men, and the sale of graded milk unless under licence.

House of Keys.—By the House of Keys Election (Votes of Members of His Majesty's Forces and the Merchant Navy) Act, 1945, the General Election for the members of the House of Keys which had been in suspense during the war was provided for with special provision for the registering, obtaining and counting of the votes of electors who were off the Island on service.

Provision is made in the House of Keys and Public Authorities Elections Act, 1945, for the date of the expiration of the House of Keys and the term of office of the elected members of the Legislative Council on the date of the General Election, and for the retirement of one third of the members of public authorities and of Parish Commissioners and Education Authority.

Purchase Tax.—Certain amendments were made by the Purchase Tax Amendment Act, 1945, following those which had been made in England and which do not call for particular specification.

Intoxicating Liquor.—By the Intoxicating Liquor (Sale to Persons Under Eighteen) Act, 1945, it was made a penal offence to sell or supply intoxicating liquor to young persons under eighteen years of age.

Lotteries.—By the Gaming, Betting and Lotteries Act, 1945, Lotteries were declared to be illegal with the exception of those which are incidental to certain entertainments on a small scale, and to the exemption of Lotteries for charitable purposes under certain restrictions, and those of a private nature. Provision was also made for certain amusement resorts which were not to keep open without a Certificate.

Leases.—By the Validation of War-Time Leases Act, 1945, certain war-time leases were validated as if granted for the term of 10 years subject to a mutual right to determine on May 12 following such date as Tynwald may declare to be the termination of the War.

Pensions.—Provision is made in the Pensions (Increase) Act, 1945, for the increase of certain pensions in respect of public service with supplementary and administrative provisions. These principally affect the officers administering the Mental Diseases Act, the school teachers superannuation and certain superannuated officers of public boards.

Income Tax.—Provision is made in the Income Tax Amendment Act, 1945, for setting up a body of Income Tax Commissioners who shall sit when required to settle assessments, and from whom there shall be a right of appeal to the Staff of Government Division, as the Court of Appeal in the Isle of Man is called, and powers were given for making allowances for depreciation of machinery and the like on the same scale as in England.

Agricultural Wages.—Provision is made in the Agricultural Wages (Regula-

tion) Act, 1945, for the wages board to provide for holidays with pay for workers employed for time work.

Oaths.—Provision is made by the Oaths and Registration of Deeds (Captioning) Act, 1945, for additional officers having authority to administer oaths or to caption or attest documents which have, by the Manx practice, to be registered in the Registry Office for Deeds.

Cruelty to Animals.—Considerable amendments have been made by the Cruelty to Animals Act, 1945, in the law relating to the prohibition of painful experiments on animals, and general restrictions specified as to the performance of experiments on animals with special restrictions as to dogs and cats, and providing for a place for animal experiments to be done at particular places licensed by the Governor, to whom reports must be sent and which are subject to his inspection, but not to apply to invertebrate animals, and with exceptions relating to certain scientific bodies.

Landlord and Tenant.—The Landlord and Tenant Act, 1945, was passed to deal with the difficulties which arose under repairing covenants in respect of damage occurring to premises when under requisition during war time and as to the payment of compensation by the Crown for damage occurring during requisition, and giving a right to the War (Local Conditions) Committee to deal with tenancies in cases where the war emergency so required.

Health Insurance.—Provision is made by the National Health Insurance (Disabled Persons) Supplementary Benefit Act, 1945, for payment by Tynwald of certain supplementary benefits to disabled persons.

Statute of Limitations.—Provision is made in the Statute of Limitations Act, 1945, for the exclusion of the war period from those fixed by law for the limitation of actions and the like.

Land Acquisition.—Provision is made in the Public Authorities Acquisition of Land Act, 1945, for the assessment of compensation in connection with the acquisition of land for public purposes by reference to 1939 prices. For certain supplement to compensation in the case of owner/occupier and of improvement and the prescribing of a rate of interest payable where entry made before the payment of compensation.

4. EIRE

[*Contributed by* A. Denis Pringle, Esq., K.C.]

Public Acts passed—37. Private Act passed—1. Few of the Acts passed by the Oireachtas during the year are of general interest.

Ancient Documents.—The Documents and Pictures (Regulation of Export) Act (No. 25) was passed with the object of preserving records of documents and pictures of national, historical, genealogical, or literary interest. It provides that, before a person exports any document (other than a document wholly in print) over one hundred years old, any painting, or any other document declared by the Minister for Education to come within the Act, an export licence must be obtained from the Minister who cannot refuse such licence provided the applicant affords facilities to the Minister for the making of photographic copies of the article, which may be published or used by the Minister in such manner as he thinks proper.

Customs Law.—The Customs (Temporary Provisions) Act (No. 14), which remains in force until March 31, 1950, contains far-reaching amendments in the Customs Code. Persons illegally *exporting* goods are guilty of an offence under the Customs Acts, and such persons may either be detained or proceeded against by summons. Certain facts are to be presumed against the defendant until the contrary is proved and suspected persons are bound, under severe penalties, to produce documents and supply information to Customs officers. All goods being, or attempted to be, illegally exported and all ships, boats, carriages, or other conveyances, made use of in the exportation or conveyance of such goods must

be forfeited (s. 5). Where proceedings for an offence under the Customs Acts are dismissed by the District Justice, the complainant may appeal to the Circuit Court Judge, who may on appeal order the complainant to pay the costs, and may refer any question of law to the Supreme Court by Case Stated.

Drainage.—The Arterial Drainage Act (No. 3) is an important addition to the existing Drainage Code. Under Part II the Commissioners of Public Works are empowered to prepare drainage schemes which are to be submitted to the appropriate county councils and to persons whose lands will be affected for their consideration and observations. When all such observations have been considered by the Commissioners and such alterations, if any, as they think proper (after consultation with certain Ministers) made in the Scheme, the Minister for Finance has to confirm, reject, or refer back the Scheme, which may include any existing drainage works. If the Scheme is confirmed by the Minister, the Commissioners are given power to carry it out, and for that purpose to enter on lands and acquire compulsorily lands, easements, fisheries, water-rights, etc. While it is provided that the Commissioners need not comply with the Fisheries Acts, they are to take such precautions and make such provisions for the protection of fisheries as the Minister for Agriculture may consider adequate. When the Minister gives a certificate that the works are completed, the Commissioners make an Award setting out the lands drained or improved and constituting the area affected a separate drainage district. Part III deals with existing drainage districts and s. 22 provides that after the appointed day no drainage rate shall be levied in any existing drainage district, but the moneys heretofore raisable by such rate shall henceforth be raised by means of the poor-rate, as a county-at-large charge. Drainage works formerly maintained by trustees of a Drainage Board are to be henceforth maintained by the appropriate County Council. The Commissioners are empowered to compel County Councils to carry out necessary repairs to works under their control. Provision is made for the control and management of weirs (s. 46), for the repair of watercourses (s. 48) and for the making of compulsory drainage orders on the representation of any Minister of State or County Council (s. 49), and certain restrictions are put on the construction or alteration of existing bridges over watercourses, without the consent of the Commissioners (s. 50). Relief is given to persons paying drainage rates in districts which are partly outside the State (s. 57).

Electricity Supply.—The Electricity Supply (Amendment) Act (No. 12) makes certain amendments in and extensions to the earlier Acts and authorizes and provides for the preparation and execution of hydraulic power schemes from suitable areas (in addition to the Shannon and the Liffey), the acquisition and management of fisheries and fishing rights in rivers affected by such schemes, and the making of grants of public moneys for the electrification of rural areas. Whenever fisheries are acquired, the Minister may prescribe the number of licences for fishing with drift-nets, etc., in tidal waters, and he may also prohibit the issue of licences for fishing with a snap-net in such waters. The statutory powers of the Electricity Supply Board to buy electricity in bulk and resell it are extended to such purchase outside the State for re-sale within the State, and *vice versa* (s. 32). After the completion of an approved Scheme, the Board may alter the level of any lake, pond or other water on or connected with the river on which the works are situate (s. 34). The discharge of corrosive matter is prohibited (s. 42), and there is a general prohibition against any person (save with the consent of the Minister) acquiring compulsorily any land held by the Board, or interfering with any right over such land (s. 48).

Horse-racing.—The Racing Board and Racecourses Act (No. 16) established a Racing Board, consisting of eleven persons appointed by the Minister for Finance (after consultation with the Minister for Agriculture), to establish, equip, and maintain racecourses, and (with the consent of the Irish Turf Club and the Irish National Hunt Steeplechase Committee) to hold race-meetings thereon. The

board may also apply for and hold a Totalisator licence. Part III of the Act deals with bookmakers, and provides that no bookmaker may carry on his business at any authorized racecourse unless he holds a " course-betting permit " granted by the board, which may make regulations fixing the admission charges to be made by the executives of racecourses for the admission of bookmakers and their assistants. Such charges must not exceed, in the case of a bookmaker, five times the charge for admission of a member of the public, and in the case of an assistant, must not exceed that charge. Bookmakers must pay to the board a levy (not exceeding five per cent.) on all " course bets." The Turf Club and National Hunt Steeplechase Committee may prohibit any person from being on any racecourse under their control, and may use such force as is reasonably necessary to enforce such prohibition. S. 40 provides that the board may make regulations in regard to the manner in which authorized racecourses are to be managed and controlled by their executives.

Irish Language.—The Irish Legal Terms Act (No. 18) provides for the setting up of an Advisory Committee, consisting of a Supreme Court or High Court Judge, a Circuit Court Judge, a District Justice, a barrister, a solicitor, a member of the Oireachtas Translation Staff, and such other person or persons as the Government may nominate. The Minister for Justice is empowered, after referring the matter to this Committee and considering their report thereon, to declare that any equivalent in the Irish language of any specified term shall be such word or words as he specifies, and thereupon such word or words shall, in any statute or instrument having or intended to have legal effect, be construed as having the same force and effect as the specified term. The Minister is also given power, after consultation with the Committee, to make arrangements for the preparation and publication of legal forms and precedents in the Irish language.

Local Government.—The Local Government (Dublin) Act (No. 8) increases the number of members of the City Council from thirty-five to forty-five. The Local Authorities (Acceptance of Gifts) Act (No. 30) enables local authorities to accept, hold and administer gifts of property for civic improvements. A civic improvement scheme adopted by a local authority may be varied if the High Court sanctions the variation.

National Stud.—The National Stud Act (No. 31) vests the National Stud farm at Tully in the County of Kildare in the Minister for Agriculture, and provides for the formation of the Irish National Stud Company Limited for the purpose of taking leases or licences of the lands from the Minister, of carrying on the business of stud farming, and of putting into operation special schemes for the improvement of thorough-bred horse-breeding.

Public Health.—The Tuberculosis (Establishment of Sanatoria) Act (No. 4) entitles the Minister for Local Government and Public Health, where he is of opinion that a new sanatorium for the inhabitants of any particular area is required, to establish such a sanatorium in or near that area and to direct the Hospitals Trust Board to defray the expenses thereof. The Minister is then to transfer such sanatorium to the appropriate local authority, which is required to repay such portion (not exceeding one-third) as the Minister considers reasonable of the amount advanced by the board. Provision is made for the acquisition of land and for the payment of compensation. The Mental Treatment Act (No. 19), containing 284 sections and four schedules, deals with the prevention and treatment of mental disorders, the care of persons suffering therefrom, and the maintenance of mental hospitals, private charitable institutions and private institutions carried on for profit. Every mental hospital authority (i.e. County Councils, Corporations and Joint Boards) is bound to maintain in its district a mental hospital and in addition is bound, if so required by the Minister, to provide consulting rooms or clinics, a laboratory, residences for staff, and burial places for patients, and also to contribute to the cost of public water supply and sewerage. Part VIII of the Act provides for superannuation allowances, pensions,

etc., for officers and servants, and special provision is made for cases where an officer or servant receives injuries attributable to his duties or contracts illness in the course thereof, and for marriage gratuities and allowances to widows and children in certain cases. Contributions to the extent of three per cent. of salary or wages are to be made by officers and servants. All private institutions, charitable or otherwise, must be registered, and the Minister is empowered on certain specified grounds either to refuse registration or to remove private institutions from the register. Part XIV deals with the making of reception orders in respect of chargeable and private patients, copies whereof must be given to the Minister who thereupon must notify the Registrar of Wards of Court of the making of such orders. S. 222 provides that any person may apply to the Minister for the examination, at the expense of the applicant, of any person detained in a mental institution. Provision is made for the recovery of the cost of maintenance and treatment of patients from the persons liable for such maintenance, according to their ability to pay, and for the purposes of the Act every legitimate person is liable to maintain his or her father and mother, an illegitimate person his or her mother, every man or woman is liable to maintain his or her children under sixteen, every husband his wife and every wife her husband. It is made an offence to receive or detain any person save in accordance with the Act, but no civil proceedings shall be instituted in respect of an act purporting to have been done in pursuance of the Act, save by leave of the High Court, and no such leave shall be granted, unless the Court is satisfied that there are substantial grounds for contending that the intended defendant acted in bad faith or without reasonable cause, and no such proceedings shall be brought after the expiration of six months from the time when the plaintiff ceased to be detained. Mechanical means of bodily restraint are not to be applied, unless same is necessary for the purpose of medical or surgical treatment, or to prevent the patient from injuring himself or others. Letters addressed by patients to the Minister, the President of the High Court, a mental hospital authority or the Inspector of Mental Hospitals, are to be forwarded unopened. The Third Schedule contains rules relating to the appointment and proceedings of Joint Boards. The only Private Act passed during the year was The Daniel M'Grath Foundation Act relating to the charitable trusts declared by the last will of Daniel M'Grath.

II. NORTH AMERICA

1. DOMINION OF CANADA

[*Contributed by* DR. MAURICE OLLIVIER, K.C., *Law Clerk, House of Commons, Ottawa.*]

THE First Session of the Twentieth Parliament began on the sixth day of September, 1945, and closed by Prorogation on the eighteenth day of December, 1945. Of the 233 Acts passed and comprised in the statutes of 1945, 39 were public, 15 were private and 179 dealt with divorces. The public legislation reflects the transition from war to peace and makes a start at meeting post-war problems. This trend will be greatly accentuated and will reach its maximum impetus at the following session, that of 1946.

Aviation.—C. 19 amends the Aeronautics Act (R.S.C., 1927, c. 3). The amendment of the previous year provided for the establishment of an Air Transport Board to advise on matters connected with the development of civil aviation, and to perform the functions of a licensing and regulatory body in respect of commercial air services. The present Act defines " commercial air service " and clarifies the legal function of the board respecting quorum and vacancies, respecting also procedure and bearings of the board. To a certain extent the Air Transport Board is assimilated to the Board of Transport Commissioners. The

Act further makes express provision for the control of free and reduced-rate transportation.

C. 31 amends The Trans-Canada Air Lines Act, 1937. Trans-Canada Air Lines is a relatively new organization having been established by statute in 1937. Its regular commercial operations extend from the west coast to the east coast and on to Newfoundland. The purpose of the amending Act is to place Trans-Canada Air Lines in a position to undertake the increased responsibilities which will be placed upon it during the next few years, as a result of the extension and improvement of existing Canadian air services and the establishment of new Canadian air services, particularly in the international field. For those purposes the Act authorizes an increase in the capital stock from five to twenty-five million dollars and gives authority to the Governor-in-Council to create corporations to operate and maintain air services under contract with T.C.A. lines, such corporations to be controlled by Trans-Canada Air Lines, and provides for the granting of subsidies to such corporation.

Maple Products.—The Maple Sugar Industry Act, 1945 (c. 15) is simply a revision of The Maple Sugar Industry Act, 1930, with special reference to that part of it which deals with adulteration of maple products, the sale of colourable imitations. The Act restricts the use of the word "maple," provides for the taking of samples of maple products by inspectors and for their analysis, the registration and licensing of manufacturing plants and gives the Minister of Agriculture power to make regulations as to grades and standards for maple sugar and maple syrup or other maple products.

National Emergency.—The National Emergency Transitional Powers Act, 1945 (c. 25), recognizes that it is essential in the national interest that certain transitional powers deemed necessary for the security, peace, order and welfare of Canada previously exercised under the War Measures Act should continue for a time to be exercisable by the Governor-in-Council during the continuation of the exceptional conditions brought about by the war, and that it is preferable that such transitional powers be exercised under special authority in that behalf conferred by Parliament instead of being exercised under the War Measures Act. The Act is limited to certain specific purposes relating to demobilization, rehabilitation, readjustment of industry and commerce, maintaining, controlling and regulating supplies, services, prices, transportation, use and occupation of property, salaries and wages to ensure economic stability, and an orderly transition to conditions of peace and finally to continuing or discontinuing in an orderly manner, measures adopted during and by reason of the war. Unless addresses are presented to the Governor-General by the Senate and the House of Commons praying that the Act should remain in force for a longer period it is to be in force for a little over a year.

Natural Resources Transfer.—The purpose of the Alberta Natural Resources Transfer (Amendment) Act, 1945 (c. 10), is to confirm the agreements respecting the transfer of Natural Resources entered into between the Government of Canada and the Government of Alberta on September 25 and 26, 1945. The first agreement provides for the settlement of differences which have arisen between the Dominion and the Province on the ownership and control of certain developed power sites on the Bow River. The second agreement provides for the cancellation of certain reservations respecting certain public shooting grounds and bird sanctuaries which have now become unsuitable for the purposes for which they were originally set aside.

Parliament.—The Senate and House of Commons Act (R.S.C., c. 147) is amended by c. 29 to provide that each member of the Senate and House of Commons shall be paid, in addition to his usual indemnity and travelling expenses, an allowance for expenses incidental to the discharge of his duties as a member, at the rate of two thousand dollars per annum for the period during which he is a member. The allowance is to be paid at the end of each calendar year and be

subject to a deduction equal to one half of the deductions, if any, from the member's sessional allowances in respect of non-attendance at sittings of the House of which he is a member during such year. The amount of such allowance paid is declared to be taxable income in the case of Ministers of the Crown, of the Leader of the Opposition in the House of Commons, and of members of the Senate.

Penitentiaries.—An Act was passed (c. 28) to amend the Penitentiary Act, 1939. Following the report of a Royal Commission on Penitentiaries, Parliament in 1939 adopted a statute called The Penitentiaries Act, 1939, which was to come into force by proclamation when provision had been made for the appointment of commissioners to administer the penitentiaries. War broke out before the appointments were made and as a consequence the Act was never proclaimed. During the war it was not deemed proper to do anything further about implementing the substantial recommendations of the Royal Commission. The present Act provides amongst other things that instead of the whole Act being proclaimed and the three commissioners being appointed at once, a part of the Act or the whole Act may come into force by proclamation and one or more commissioners be appointed. One of the reasons for so doing was that before proclaiming the whole Act and appointing the three commissioners it might be found useful to appoint a commissioner to accomplish the preparatory work before attempting to implement the whole report.

Prize Courts and Prize Law.—The Canada Prize Act, 1945 (c. 12), was passed for the purpose of putting in statutory form what was the common law practice in respect to prize courts and prize law and to replace the Order in Council which had been in force under the War Measures Act in that regard. The Act sets out what is the prize law in Canada and makes the Exchequer Court the court to administer that law.

Railways.—The Canadian National Railways Financing and Guarantee Act, 1945 (c. 14), authorizes the Canadian National Railway Company to issue notes, obligations, bonds, debentures or other securities to an aggregate amount not exceeding $8,800,000 to provide the moneys necessary to meet capital expenditures or capital indebtedness made or incurred by the National Railways system during 1945. The Minister of Finance may make temporary loans to the company to meet authorized expenditures, such loans to be secured by the securities which the company is authorized to issue by the Act.

Reconstruction.—C. 11—the Bretton Woods Agreement Act, 1945, was passed to carry into effect the agreements for an International Monetary Fund and an International Bank for reconstruction and development. The articles of the Agreement of the Fund and the Bank were prepared at the United Nations Monetary and Financial Conference held at Bretton Woods in July, 1944, and attended by representatives of forty-four nations. The Governor-in-Council is authorized by the Act to fix the par value of the Canadian dollar for the purposes of the Agreement for the International Monetary Fund and the Bank of Canada is authorized and directed to act as the depository in Canada of the Fund and the Bank. Provision is also made for Canada's subscription to the Fund and the Bank to be paid in the manner provided by the articles of Agreement.

The Central Mortgage and Housing Act (c. 15) establishes a corporation under the name of the Central Mortgage and Housing Corporation with a paid up capital of twenty-five million dollars to take care of the operation of previous Housing Acts, to provide discounting facilities for lending institutions.

On the other hand c. 26 was passed to amend The National Housing Act, 1944, to provide generally for an increase in the appropriation for loans and guarantees under the said Act, more particularly for the payment of loans and losses in respect of loans not exceeding in the aggregate one hundred and fifty million dollars and in respect of guarantees up to an aggregate principal amount

of one hundred and twenty-five million dollars of investments guaranteed. Five million dollars is also provided for housing research and community planning.

The purpose of the Department of Reconstruction and Supply Act, 1945 (c. 173) was to create a new Department under the name mentioned, to which the functions of the Department of Reconstruction and of the Department of Munitions and Supply are transferred by the Act.

The Food and Agriculture Organization of the United Nations Act, 1945 (c. 4), is according to the long title of the measure an Act for carrying into effect the agreement for a Food and Agriculture Organization of the United Nations between Canada and certain other nations and authorities. The method proposed is to empower the Governor-in-Council to do whatever may be proper or expedient for carrying out the provisions of the Constitution, or any recommendations of the Conference of the Organization, or its Committees, made pursuant to such provisions.

The Export Credits Insurance Act, which in the session of 1944–45 had set up the Export Credits Insurance Corporation, is amended by c. 20 of the statutes of 1945. The original Act provided that the aggregate amount of guarantees and of loans should not exceed two hundred million dollars and one hundred million dollars respectively, the amending Act provides that the aggregate amount of loans made and outstanding and the value of securities purchased or acquired and held shall not exceed seven hundred and fifty million dollars.

Taxation.—The Dominion-Alberta Supplementary Taxation Agreement Act 1945 (c. 17), authorizes the Minister of Finance to enter into an agreement with the province of Alberta to amend the agreement with that province made under The Dominion Provincial Taxation Agreement Act, 1942.

The Dominion Succession Duty Act (c. 14 of the statutes of 1940–41) is amended by c. 18, the purpose of which is to reduce the valuation of property previously taxed in cases where the successor dies within a period of five years after the death of the original owner.

A few amendments are made by c. 19 to The Excess Profits Tax Act, 1940, to provide, *inter alia*, a new definition of excess profits which are subject to the maximum rates of tax and to provide for the charging of taxpayers with the new rates of tax and also that a business coming into existence after October 12, 1945, whose ownership is not substantially different from that of its predecessor, will not enjoy the lower rate of tax on the profits of its first fiscal period.

C. 23 amends the Income War Tax Act (R.S.C., 1917, c. 97) and implements the twenty-two resolutions introduced in Parliament on October 12, 1945. A certain amount of relief is granted by the fact that the tax levied on personal income is abated by sixteen per cent. dating from October 1, 1945. The abatement on the whole tax liability for 1945 amounts in consequence to four per cent. In addition to this change other amendments were also made one of which is that on coming into force of The Family Allowances Act steps are to be taken to adjust the deduction from income tax on account on dependent children in order to avoid duplication where family allowances are being paid in respect of such children.

The amending Act further provides that in respect to contractual annuities, the capital element in such annuities should not be taxed, also that annual or periodic payments under wills or trusts should be subject to income tax only to the extent that they are paid out of income. As to pensions the Act provides for the taxation of all pensions except that, where an employee has not in the past been entitled to a deduction from taxable income in respect of his contributions, an appropriate portion of the pension be exempt from tax when received by him or by his dependents. Earnings in the hands of trustees of pension funds are made exempt from income tax. Several less important amendments are also made in respect to personal income tax.

Amendments were also made (c. 30) to the Special War Revenue Act (R.S.C., c. 147) exempting from sales tax certain machinery and apparatus used directly in the manufacture and production of goods, and taxation on furs has been simplified. The retail excise tax levied on articles on purchases up to $100 which tourists bring from the United States has also been repealed.

Veterans.—The Veterans Rehabilitation Act (c. 35) provides rehabilitation allowances to temporarily unemployed veterans or their dependents and to veterans undergoing vocational or educational training. It also provides for the application of The Unemployment Insurance Act, 1940, for the veterans' benefit by contributing the amount of the combined employer's and employed veteran's contribution into the Unemployment Insurance Fund, from moneys appropriated by Parliament.

The War Service Grants Act, 1944, was amended by c. 38 by incorporating therein certain Orders in Council passed under the War Measures Act and by extending and clarifying the operation and application of the Act.

A measure was passed (c. 34) to amend The Veterans' Land Act, 1942, to make it conform with the Act to amend the War Service Grants Act, 1944 (referred to above), by incorporating in the measure the provision of certain Orders in Council passed under the War Measures Act and by extending and clarifying the operation and application of the Act.

2. ALBERTA*

SEVENTY-ONE Acts were passed in the Session.

Department of Economic Affairs.—C. 2 establishes a new Department of the Government which will administer such Acts and regulations as may be assigned to it by the Lieutenant-Governor-in-Council or as the Acts themselves may authorize. Authority is given to appoint a Deputy Minister and other officers and the duties of the Minister are specifically set out in s. 6 which are, generally, to further and encourage orderly economic cultural and social development of the Province and to assist in the rehabilitation of persons returning to the Province from war service and from war industries.

By s. 7 provision is made for the appointment of a commission or committee to act in an advisory or administrative capacity.

S. 8 gives the Minister and any committee or commission appointed to make inquiries, the power of summoning witnesses, etc.

The Post-War Reconstruction Act is repealed by s. 10 as the duties under that Act will in future be performed by the new Department. In order to enable the committee under that Act to wind-up its work, the repeal does not become effective until proclamation.

Representation of the Forces.—The purpose of c. 3 is to validate the Order-in-Council and Regulations made on September 26, 1944, and amended on October 4, 1944, and December 13, 1944, providing for the election of three members of the Tenth Legislative Assembly to represent the Navy, Army and Air Force respectively. The Regulations under which elections were held are appended to the Act and the three candidates who have been certified by the Clerk of the Executive Council as receiving the largest number of votes are declared by the Act to have been duly elected and to be members of the Tenth Legislative Assembly.

This is subject to a recount being demanded with respect to any of the Services and an application for this may be made within sixty days from the date of the certificate of the Clerk of the Executive Council. Proceedings for a recount are simplified by dispensing with security and with the affidavit required by s. 100

* Based on the synopsis prepared by W. S. Gray, Esq., K.C.

of The Alberta Election Act. If, on the recount, a candidate declared elected by this Act has not the largest number of votes, his seat will be vacated and the candidate who received the largest number of votes is declared elected.

Provincial Securities.—Under c. 5 the Lieutenant-Governor-in-Council is empowered to authorize the Provincial Treasurer to make offers to the holders of provincial securities to exchange them for new securities.

The Act prescribes what is to be provided for in the offer, including the rate of interest on the new securities not exceeding three and one-half per centum. The dates of maturity must be not more than thirty-three years from the date when interest first accrues ; the offer may contain terms and conditions of redemption before maturity.

S. 4 arranges for the creation of the new securities, s. 6 for the creation of a Debt Retirement Fund for the purpose of retiring new securities, etc. A sum of not less than $2,000,000 is to be paid into the Fund annually, and the Provincial Treasurer may, pending application of the funds as above, invest them in bonds of Canada.

Housing.—C. 6 facilitates the making of loans in Alberta under the National Housing Act, 1944 (Canada). Certain statutory provisions will not apply to these loans.

C. 7 incorporates the Alberta Housing Association Limited, and constitutes as a corporation the Minister of Municipal Affairs and such municipalities as become shareholders.

The capital stock is fixed at two million dollars ; shares can only be allotted for cash, and must be non-profit bearing.

The powers of the Association are generally to lend money on mortgage, to assist in the erection of dwelling houses and to take proper security for such loans. The Association may apply for approval as a lending institution under The National Housing Act, 1944, and may also raise money by the sale of debentures in the amount of two million dollars bearing interest at three and a half per cent.

The Province is to subscribe for five thousand shares and purchase debentures in the sum of five hundred thousand dollars.

Municipalities may purchase shares out of revenue or sinking fund ; but, if a municipality purchases shares, it must purchase shares the par value of which is not less than one dollar for each resident of the municipality. Municipalities may also purchase debentures. Each municipality which is a shareholder may appoint some person to represent it at meetings of the Association.

The Act constitutes a Board of Directors ; the Lieutenant-Governor-in-Council may appoint not more than six and Calgary, Edmonton, other cities together, towns and villages together and municipal districts together, one each.

S. 17 limits the amount of loans and the rate of interest and also the cost of the house with respect to which a loan is made. Loans must not exceed five thousand dollars, interest must not exceed four and one-half per cent., and the house must not cost more than seven thousand five hundred dollars.

Coal Mines.—This new Act (c. 8) is limited to the operation of coal mines.

Before employment there must be a medical examination both as to physical condition and eyesight, and a certificate to be furnished in a satisfactory form to the Workmen's Compensation Board.

The age for employment in charge of engine and machinery connected therewith is increased from seventeen to nineteen years and, in the case of a person in charge of a hoisting engine, to twenty-one. No female may be employed about a mine unless in a clerical or domestic position.

In future no person can act as manager of more than one mine at the same time unless he has the permission of the Chief Inspector and the mines are operated by the same owner.

It is forbidden to brush or waft out gas from any working place in the mine.

Where a person is required at a ventilating door, a place of refuge must be provided close to the door.

Auxiliary or booster fans underground must be installed in such a way that there can be no re-circulation of return air within the fan.

Any part of the mine must be considered to be in a dangerous condition if the percentage of inflammable gas in the general body of the air is two and one-half per centum or upwards.

Workmen employed in a mine must at the request of the owner, agent or manager appoint a committee to inspect the mine and the cost of such inspection must be borne by the owner.

S. 145 contains the only provision of the Act dealing with explosives, as it is the intention after consultation with the operators and the union officials to establish regulations with respect to explosives.

Mineral Taxation.—C. 9 amends and consolidates the Mineral Taxation Act, c. 50, R.S.A., 1942. The substantial changes made by this Act are these.

The definition of minerals in s. 2 is changed by including coal and it is now made clear that limestone, marble, etc., are not taxable unless they are being worked commercially. The definition of producing area is extended to include property within five-eighths of a mile of a mine or well which is producing or has produced minerals.

S. 3 imposes upon the registered owner a tax on all minerals in the Province (with the exceptions mentioned in the section) at a rate fixed by the Lieutenant-Governor-in-Council not to exceed five cents per acre. The acreage tax imposed by the Act now in force was limited to non-producing areas and was at a rate not to exceed one-half cent per acre ; the minimum tax is fixed by s. 4 of this Act at twenty-five cents instead of one dollar as in the former Act.

The provisions as to appeal from assessment have been changed ; under the former Act there was an appeal to the Petroleum and Natural Gas Conservation Board and from that Board to the Alberta Assessment Commission. By s. 11 of this Act the appeal is direct to the Alberta Assessment Commission and may be by any person on the assessment roll or by the Deputy Minister.

S. 18 of this Act provides that a Registrar of Land Titles shall not accept for registration a transfer, mortgage, lease, or assignment of lease affecting minerals unless all taxes under the Act are paid and a tax receipt or tax certificate to that effect is filed with the Registrar.

Coroners.—C. 10 replaces the Coroners Act (c. 117 of the Revised Statutes of Alberta, 1942). It revises the conditions under which a coroner's inquiry shall be held, in conformity with the Coroners Acts of other Provinces in the Dominion. Only the material changes are referred to here.

A coroner must henceforth be notified in all cases where there is reason to believe that a deceased person died as a result of violence or misadventure or by unfair means, or from any cause other than disease or sickness, or as a result of negligence or misconduct or malpractice on the part of others. The old Act required notification where persons died an unnatural death or a sudden death of which the cause is unknown, or as a result of violence.

There is a fuller statement of the duties of coroners and the procedure to be carried out in connection with the holding of an inquest. Any five jurors may return a verdict, whereas under the old Act verdicts had to be unanimous.

Where a person has met death by violence in the wreck of a building, bridge, structure, embankment, aeroplane, motor vehicle, boat, machine or apparatus, the coroner may take charge of the wreckage and place a constable to guard it. He may also prohibit any person from interfering with, destroying or carrying away the wreckage or any part thereof in order to preserve the conditions so that the jury may view the premises, and also to ensure the preservation of evidence relating to the death of the deceased.

The Act prescribes details of procedure in requiring the attendance of jurors and witnesses, a good deal of which was omitted from the old Act.

Oil.—The purpose of c. 11 is to confirm an Order in Council which authorized the execution on behalf of the Government of the three agreements which are set out in a Schedule to the Act. The first agreement, between the Government and Oil Sands Ltd., was for constructing and operating plant at Bitumount to separate oil from oil sands and refine the oil. The second dealt with the sale of the plant and land to the company. The third, between the Government and the Bitumount Holding Company, cleared up the arrangements for certain leased areas.

School Grants.—C. 12 repeals the School Grants Act (c. 177 of the Revised Statutes of Alberta, 1942). That Act authorized grants to school districts for the most part based on the number of authorized teaching days during which the school was kept open. In future the Lieutenant-Governor-in-Council may make regulations for the apportionment and distribution of the moneys appropriated by the Legislative Assembly towards the support of education.

Juvenile Offenders.—C. 13 is a new Act. It applies only to offences by juveniles under eighteen years of age against Provincial Statutes and by-laws of municipalities, to summary conviction matters under The Criminal Code, and to sexual immorality. The more serious offences, namely, indictable offences against The Criminal Code, will continue to be dealt with under The Juvenile Delinquents Act.

" Court " is defined as the Juvenile Court established under The Child Welfare Act and " Judge " as a Judge of the Juvenile Court designated to have jurisdiction under this Act.

S. 11 prohibits the confinement of children in gaols, etc. ; their detention will be allowed only in homes or shelters.

Where there is no detention home used exclusively for children, a child is not to be detained unless such course is considered necessary in the opinion of the officers mentioned.

Where a fine is imposed and the Court is satisfied that a parent or guardian has conduced to the commission of the offence, the Court may direct that the fine, etc., not exceeding fifty dollars, shall be paid by the parent or guardian. The fine may be recovered from the parent by distress ; there may be imprisonment on default.

Children are not, with certain exceptions, to be present in Court during the trial or preliminary hearing of any person charged with an offence.

A juvenile offender, after conviction under this Act, must not be imprisoned in a gaol or penitentiary or any place where adults are imprisoned.

It will henceforth be an offence for any person to induce a child to leave a detention home, etc., or to attempt to remove a child therefrom or knowingly to harbour a child who has unlawfully left an institution.

Appeal from decisions of the Juvenile Court under this Act can only be taken when special leave to appeal has been granted by a Judge of the Supreme Court. The appeal must be heard on the material before the Juvenile Court, and such further evidence as the Supreme Court Judge may require or permit.

Home for Aged or Infirm.—C. 14 provides for the licensing of homes for aged or infirm persons ; " home " is defined as a house or other building where three or more of such persons are kept for compensation.

Municipalities may pass by-laws licensing homes and also by-laws providing for the erection or purchase of a home by the municipality and may borrow money for this purpose.

The Minister may pay grants to municipalities which have placed old or infirm residents in a licensed home and contribute to their support there. The grant for any one person is not to exceed one-half of the amount paid by the municipality for his support.

The new Act prescribes the standards of accommodation, etc., in licensed

homes which will entitle a municipality to a grant, and authorizes the Minister to cancel a grant when the standards are not complied with.

Chiropractic.—C. 16 incorporates the Alberta Chiropractic Association. The members of the Association shall be the chiropractors now registered under the existing Act ; but only those who desire to do so are required to become active members. The others are described as non-participating members. The fees for active members are fixed as not exceeding one hundred dollars and those of non-participating members at not more than twenty-five dollars. New active members' fees also will not exceed twenty-five dollars for the first two years following initial registration.

S. 5 (5) arranges for the election of a " Board of Chiropractors " which, under the provisions of the Act, will be the governing body of the Association. The powers of this board to make regulations are set out in s. 6. These regulations will not be effective until approved by the Association and the Lieutenant-Governor-in-Council and published in *The Alberta Gazette*.

S. 7 deals with discipline of members. The Lieutenant-Governor-in-Council is given power, on the recommendation of the board, to cancel or suspend the registration of a member and to reinstate the registration.

S. 9 deals with the appointment and duties of an Examining Board.

The Act specifies the qualifications necessary to entitle a person to apply for registration. There is special provision for those persons who are attending a chiropractic school when the Act comes into force, and for men discharged from the armed forces, or frozen in their occupations, providing they register at a chiropractic school within two years of discharge or release from the frozen occupation.

S. 11 (5) gives an appeal to the Lieutenant-Governor-in-Council when the board has not recommended the registration of the applicant. There can be further examinations after failure of a candidate.

Ss. 12 and 13 deal with registration and renewal of same and prescribe what use of the term " Doctor " is or is not permissible.

Ss. 19 to 24 set out the rights and duties of chiropractors and stipulate that an action for negligence or malpractice must be brought within six months from the date when the professional services terminated.

Agricultural Service Board.—The general purpose of c. 19 is to promote, through co-operation between the Department of Agriculture and Municipal and Improvement Districts, agricultural policies for improving the economic welfare of the farmer, including weed control and soil and water conservation programmes.

Any council of a Municipal District may constitute an advisory " Agricultural Service Board," with representatives of the Council, the ratepayers of the District and the Department of Agriculture.

Part II of the Act relates to lands which are debilitated or in the process of becoming debilitated through weed infestation, wind or water erosion, or other causes and are in such a condition that they may become a menace to the community.

When the board, after investigation, has found this state of affairs to exist, it must report its findings to the Council or the Minister of Municipal Affairs where the land is in an Improvement District. The Council or the Minister may then declare the land subject to reclamation.

If such a declaration has been made, the Field Supervisor and the representative of the Department of Agriculture must consult with and advise the occupant of the land and if possible agree with him as to proper farming practices. Where the condition of any land declared subject to supervision requires expenditure by the Council or the Minister for equipment, labour, etc., the expenditure may be made through an agreement with the owner, or occupant, or both, providing for repayment. The advances, if not repaid, may be charged against the land as taxes.

S. 15 deals with cases where the land has got into such a state that the action prescribed in the foregoing sections will be ineffective. The board may then recommend that the land should be taken from the control of the owner and occupant and the Council or Minister of Municipal Affairs may declare by by-law or order that the possession and control of the land be vested in the Council or Minister. The by-law or order is to be registered in the Land Titles Office and a memorandum made on the title which shall have priority over existing encumbrances, etc., except taxes, irrigation and drainage rates. The Council or the Minister may enter into possession and through their agent farm the land, or they may agree with the owner or occupant as to farming the land with a view to its reclamation and rehabilitation under the general supervision of the Field Supervisor and with the advice of the board. The expenses are to be paid by the Council or the Minister, who shall be entitled to the revenues which are to be applied in payment of sums expended and taxes ; any surplus is to be paid to the owner or other person entitled.

Department of Education.—C. 21 empowers the Lieutenant-Governor-in-Council to make regulations governing private schools. These are defined as schools other than those schools organized under this Act or The School Act. There must be no private school unless it has been approved by the Minister ; penalties are provided for infractions of this prohibition.

Department of Lands and Mines.—C. 22 adds two sub-sections to s. 9 of the principal Act. Under that section the Lieutenant-Governor-in-Council could appoint an Advisory Board to act in an advisory capacity to the Minister in the administration and development of natural resources of the Province generally, with power to make such inquiries and investigations as the Minister directed. The amendment authorizes the appointment of advisory committees, each of which will advise the Minister as to the administration and development of a particular resource specified in the order appointing the committee. These committees will also have authority to undertake such inquiries and investigations as the Minister directs.

Government Liquor Control.—S. 1 of c. 24 adds a new sub-section to s. 54 of the principal Act which deals with the creation of local option areas . Intended to apply primarily to enlarged municipal districts, it authorizes the Lieutenant-Governor-in-Council to create a local option area either of the whole or of some part of a municipal district.

S. 4 adds to s. 103 two new sub-sections dealing with interdiction orders. A judge or magistrate may interdict a person convicted before him of driving a car while intoxicated where an accident is involved or a person convicted for the second time within a year of being intoxicated or drunk and disorderly. The judge or magistrate may also, by sub-section (1*b*), where he convicts a person of driving a motor vehicle while intoxicated and an accident is involved, suspend his driver's licence for a period of not more than a year. The licence *must* be suspended for a year in the case of a second conviction.

Public Works Act.—S. 2 of c. 32 enacts a new s. 45a of the principal Act. The Minister may thereby, with the approval of the Lieutenant-Governor-in-Council, make agreements with municipalities for constructing or laying out municipal works such as parks, swimming pools, etc., at a cost to be borne by the Province and Municipality jointly.

Agricultural Pests.—S. 1 of c. 34 deals with grasshopper control. It extends the authority of the Government to maintain at certain points reserves of poisoned bait and the ingredients thereof, the storage costs to be paid by the Province. The liability of municipalities in connection with the supply of poisoned bait is clarified. The section sets out the responsibility of the municipalities when the ingredients of the bait are supplied to a municipality which has a mixing station, and defines the liability where the mixed bait is supplied to a municipality.

S. 2 deals with the control of bacterial ringrot. It authorizes the Minister to

purchase or procure stocks of suitable seed potatoes and store the same: it provides for the distribution and sale of the seed potatoes: and it authorizes the Minister to purchase pesticides, disinfect storage facilities and make a charge for that service.

Agricultural Schools.—S. 1 of c. 35 reconstructs the Board of Agricultural Education. The board is to consist of twelve members instead of eleven ; the Minister of Agriculture is to be chairman, and the Deputy Ministers of Agriculture and Education are to be members. Of the eight members to be appointed by the Lieutenant-Governor-in-Council, six are to be selected from organizations named.

Domestic Animals.—S. 1 of c. 36 introduces a new definition of " animal running at large." Subs. (i) applies it to " an animal off the premises of its owner and not under the immediate continuous and effective control of the owner " while subs. (ii) applies it to animals, whether under the control of an owner or not, grazing on lands of which the owner of the animals has no right of occupation, or grazing upon a highway.

Town and Village.—S. 44 of the principal Act, which is amended by s. 4 of c. 41, deals with the qualifications of councillors. The change made by paragraph (*a*) is that a candidate must be able to read and write English and not merely to read and write, as it was formerly in the Act.

Municipal Districts.—S. 1 of c. 42 amends s. 2 of the Municipal District Act. A new definition of " conditional owner " is introduced in this Act and the other municipal Acts. There is also a new definition of " proprietary elector "; where several non-residents own one lot, only one of them can vote as a proprietary elector in respect of that lot.

Improvement Districts.—S. 4 of c. 43 amends s. 20 of the principal Act by increasing the discount on taxes for prompt payment from five to six per cent.

Public Health.—S. 1 of c. 51 enlarges the matters with respect to which the Provincial Board of Health, with the approval of the Lieutenant-Governor-in-Council, may make regulations. The law will now include " the location, construction, maintenance and operation of cemeteries." The added words extend the authority to regulate cemeteries by allowing the setting aside of a portion of a cemetery for Service men and fixing fees in connection with the burial.

S. 2 is concerned with pasteurization of milk. Cities, towns and villages (except those under three hundred population) may pass by-laws requiring milk sold in the municipality to be pasteurized. The by-law must be approved by the Provincial Board of Health and does not apply to milk brought into the municipality by producers and sold to wholesalers, processing plants, etc. The by-law is not to be finally passed unless approved by sixty-five per cent. of the electors in a plebiscite. " Elector " is defined as meaning a person entitled to vote for a member of the council.

S. 6 introduces a new power for the Provincial Board to inquire into complaints with respect to the discharge into the atmosphere of dust, vapour, smoke or fumes, and the consequent impairment and corruption of the air, and impairment of the comfort or health of the public. The board's report to the Minister may fix the responsibility and advise what remedial measures are necessary. The board may require a report from the person held responsible as to the equipment necessary to eliminate the injury complained of and its cost. Application may be made to a judge for an order requiring the person responsible to carry out recommendations of the board and restraining him from continuing the injury until the elimination or alleviation called for by the judge's order have been carried out.

S. 7 deals with the organization of full-time health districts. A health district may now be established with a staff consisting of a medical practitioner, a dentist, one or more trained nurses, a sanitary inspector, a nutritionist, or any of them.

Insurance.—S. 5 of c. 56 is concerned with the rights of ordinary beneficiaries

under a life insurance policy. The rights of beneficiaries for value and preferred beneficiaries such as husband, wife, children, grandchildren, etc., were defined in s. 224 of the previous Act, but it has been recently held in Ontario that an ordinary beneficiary named in a policy had no right of action against an insurance company. An ordinary beneficiary, or a trustee of an ordinary beneficiary, is now to have such right of action, subject to any defences which the company might have against the person insured. A new sub-section allows the designation of a beneficiary in instruments in writing other than a will, and fixes the time from which the declaration takes effect. The rights of beneficiaries for value and assignees for value of a policy are protected unless the declaration has been filed at the company's head office in Canada before the beneficiary for value or the assignee for value acquired his interest. A copy or the material part of a will is to be filed with the company.

The new Act deals also with automobile insurance. "Automobile" here includes all self-propelled vehicles and will thus include tractors used in the bush, vehicles operated within a manufacturing plant or business, and certain types of contractors' equipment.

The former law gave an insurer the right upon application to the Court to be made a third party where liability under a motor vehicle liability policy was denied. This right is now continued ; in addition the insurer, when added as a third party, is given the right to contest the liability of the insured to any party claiming against the insured and the amount of the claim, and is given generally the rights of a defendant, whether the actual defendant files a defence or not.

Child Welfare.—C. 61.—A previous statute required the publisher of a periodical, before publishing an advertisement dealing with adoption, boarding or care of a child, to obtain from the advertiser a memorandum of his name, address and occupation, which must be submitted with the advertisement to the commission for approval. A new Act (c. 61) prohibits the publishing of any advertisement dealing with the adoption of a child.

Hours of Work.—Under c. 62 the working hours of employees are not to exceed eight in the day and forty-eight in the week. As the law formerly stood, the hours for males were not to exceed nine in the day and fifty-four in the week. The hours for females are not changed by the amendment. S. 3 requires twenty-four consecutive hours of rest in every consecutive period of seven days unless otherwise ordered by the Board of Industrial Relations.

Minimum Wage.—C. 64 enacts a new definition of "overtime" for male, and c. 65 for female workers. "Overtime" was formerly defined as the excess over ten hours in any one day or the excess over fifty-four hours in any one week. The new definition is time in excess of nine hours during any one day or forty-eight hours in a week, or in either case time in excess of hours prescribed for the employment under The Hours of Work Act. The new law also requires the employer to preserve for one year the records of the names, wages and hours of work, etc., of employees.

Solemnization of Marriage.—The existing law forbade a clergyman to solemnize a marriage after the publication of banns unless the parties produced to him affidavits to the effect that they were not then infected with a venereal disease or tuberculosis. A new provision (c. 67) inserts in the form of the affidavit the words "to the best of his knowledge."

Returns made by the issuers of marriage licences are now to be made monthly instead of quarterly. A clergyman who solemnizes a marriage after publication of banns must attach to the registration of marriage the certificate of publication of banns, the health affidavit, physician's certificate, etc., and forward them to the District Registrar within three days of the marriage.

Mothers' Allowance.—An amendment by c. 68 to the definition of "widow" reduces the period of desertion necessary to entitle a woman to the benefit of

the Mothers' Allowance Act from five years to three years. The Superintendent, subject to the approval of the Minister, has authority to determine when a woman qualifies. This jurisdiction was formerly in a district judge. The new definition also includes a woman who has lived for five years before his death in marital relations with a man but not married to him and has borne children registered as his.

3. BRITISH COLUMBIA

[*Contributed by* J. Pitcairn Hogg, Esq., K.C.]

Eighty-three Acts including three private Acts were passed in the Session.

Equal Rights for Children.—If after a re-marriage following upon an order of presumption of death of a spouse or upon an official notice of the death of a soldier, it is found that the spouse supposed to be dead was in fact alive at the time of the re-marriage, the children of the re-marriage shall nevertheless be deemed to be legitimate under c. 8.

Wills.—A testator by c. 80 may file with the Director of Vital Statistics notification of the place where his will is kept.

Forest.—The chief amendment enacted by c. 45 arises from the establishment of the Forest Service as a department separate from the Department of Lands and administered by a Deputy Minister of Forests.

Electric Power.—C. 27 establishes a Power Commission. The Commission is an agent of and is financed by the Crown. It has power to acquire, contract and expropriate electric power plants, and to furnish electric power to the public.

Fire Department.—C. 30 establishes a forty-eight-hour week for firemen.

Tourist Camp.—C. 71 is an Act to regulate tourist camps by laying down the conditions with which they must comply and subjecting them to inspection. A tourist camp is defined to include " auto camp and any parcel of land or premises equipped with cabins used or maintained for the accommodation of the public, and any parcel of land or premises used or maintained as a camping or parking ground for the public, without regard to whether a fee or charge is paid or made for the rental or use of the same." The Lieutenant-Governor-in-Council has power to exempt from the operation of the Act tourist camps " not operated primarily for gain."

Evidence.—S. 36a of c. 90 of the Revised Statutes is re-enacted by c. 28 so as to make more comprehensive the provision whereby photographic prints are admissible in evidence. S. 48 is amended to the effect that where a leaflet, pamphlet, circular or advertisement bears the name of a person by whom it purports to have been printed or published, production thereof shall be *prima facie* evidence that it was printed or published by that person.

Farmers' Assistance.—The Government is authorized by c. 29 to assist farmers in the clearing of land and to borrow and spend money for that purpose.

Warehouse Receipts.—C. 77 codifies the law relating to warehouse receipts. It was drafted by the Conference on the Uniformity of Laws and is based largely on the uniform Acts used in the United States.

Disciplinary Authorities Protection.—C. 21 provides that where the members of any occupation have been incorporated with disciplinary powers no member shall incur liability in respect of the exercise of the disciplinary powers unless the act complained of was done maliciously and without reasonable and probable cause.

Social Assistance.—Social assistance may be granted by authority of c. 62 out of sums appropriated by the Legislature for the purpose to individuals, whether adult or minor, or to families, who through mental or physical illness or other exigency are unable to provide in whole or in part by their own efforts, through other security measures, or from income and other resources, necessities essential to maintain or assist in maintaining a reasonable normal and healthy

existence. Social assistance is defined to include financial assistance, assistance in kind, institutional nursing, board or foster home care, and in money or in kind to municipalities, boards, commissions, organizations or persons providing aid, care or health services to indigent, sick or infirm persons, and in reimbursing expenditure made by them, counselling service, health services, occupational training, retraining or therapy for indigent persons and mentally or physically handicapped persons and generally any form of aid necessary to relieve destitution and suffering.

King's Counsel.—C. 40 authorizes the appointment of ten King's Counsel every two years.

Highway.—The rider of a bicycle involved in an accident is required by c. **36** to remain at the scene of the accident and render all possible assistance.

Marriage.—Both parties to a marriage by c. **47** must be present in person at the ceremony, thereby prohibiting marriages by proxy.

Probate Duty.—Provides that no interest is chargeable in accordance with c. **59** if probate duty is paid within six months of the granting of probate.

Jury.—The fees paid to jurors are increased by c. **39** which also provides a new method for selecting a list of jurymen, so as to reduce to a minimum the necessity to rely upon talesmen.

4. MANITOBA

[The review for the year 1945 was published in the last Review of Legislation.]

5. NEW BRUNSWICK

6. NOVA SCOTIA

[It is hoped to publish the reviews in the next issue.]

7. ONTARIO

[*Contributed by* K. G. Morden, Esq., K.C.]

First Session

Acts passed, 40 ; Public 28 ; Private 12.

Securities.—The Securities Act (c. 22) repeals the Securities Act of **1937** and all amending Acts and provides a code for the regulation of stock exchanges, stock brokers, investment counsel and their activities. This code is administered by a body named the Ontario Securities Commission and consists of a chairman and not more than two other members appointed by the Lieutenant-Governor-in-Council.

No person unless registered shall trade in any securities as a broker or a salesman of a broker, or act as an investment counsel.

There are many classes of transactions for which registration is not required, such as judicial sales, isolated transactions for one's own account, banking transactions, sales of pledged securities, trading in Government or trustee securities, etc. Every registration in force at the date of coming into force of the Act shall be reviewed by the Commission. " The Commission shall suspend or cancel any registration where in its opinion such action is in the public interest " (s. 10). Notice of every direction, decision, order or ruling of the Commission shall be served upon the person affected by it, who may then request a hearing and review by the Commission, who may revoke, vary or confirm its decision. An appeal

lies to a justice of the Court of Appeal from the decision of the Commission, on review. Upon one appeal against the cancellation of a broker's registration, the Court said " I do not think the Commission are placing the requirements of their statutory duty too high when they refuse approval of the registration of one whose past conduct and present fitness they are not satisfied by the evidence before them . . . to allow the appeal would be an unwarrantable interference with the exercise by the Commission of the powers and discretion that the statute has vested in them." (*Re Securities Act* and *Morton* (1946) O. R. 492).

The Act regulates the conduct of brokers and salesmen and not only provides penalties for its non-observance but in certain specified cases entitles the customer to rescission of his contract to purchase securities.

Second Session

ACTS passed—Public 13 ; Private 0.

Statutes.—The Statutes Act R.S.O. 1937, c. 2 provides that the Clerk of the Assembly shall endorse on every Act the date it receives the Royal Assent and the date of prorogation of the session of the Legislature at which an Act was passed and unless otherwise provided therein the Act shall come into force on the sixtieth day after prorogation. The first session in 1945 (see above) was not prorogued but was terminated by a dissolution of the Legislature. The Statutes Amendment Act (c. 9) provides that where this occurs, the date of dissolution shall be deemed to be the date of prorogation.

8. PRINCE EDWARD ISLAND

1944

TWENTY-EIGHT Public, mostly amending Acts, and eight Private were passed in the Session.

Apprentices.—Special provision is made by c. 2 for the training of apprentices and a Director of Apprenticeship appointed under the Minister of Reconstruction to supervise the arrangements with the assistance of the Provincial Apprenticeship Committee. There is a central registration of contracts of apprenticeship with power to the Director to refuse to register any contract not in his opinion for the benefit of the apprentice. The Act is primarily for the various branches of the building trade but others may be added to it.

Non compos mentis.—A lunatic or mentally incompetent person is defined by c. 4 amending the Chancery Act (4 Geo. vi, c. 11) to be a person (i) in whom there is such a condition of arrested or incomplete development of mind, whether arising from inherent causes or induced by disease or injury, or (ii) who is suffering from such a disorder of the mind, that he requires care, supervision and control for his protection and the protection of his property.

Intestate Estates.—The distribution of the estates of intestates is the subject of c. 14 and is in accordance with the provisions generally approved so as to secure uniformity throughout the Dominion.

Public Vehicles.—The law relating to public vehicles is amended and consolidated in c. 25. It embodies a system of licensing and the conditions to be fulfilled by drivers.

1945

THIRTY-FIVE, principally amending, Public and ten Private Acts were passed in the Session.

Plant Disease.—C. 4 is an amending and consolidating Act directed to the extirpation of Bacterial Ring Rot.

Education.—A Department of Education is created by c. 11 under a Director of Education with a Council including representatives from the Federation of

Agriculture, the Provincial Command Canadian Legion, the Teachers' Federation and the Women's Institute. Labour Unions, Fishermen's Unions and Boards of Trade can also have representation so soon as they have formed central provincial organizations.

The Libraries of the Province are placed under the department.

Electricity.—C. 12 is a comprehensive measure to provide for improving the availability and supply of electrical power.

Trade Unions.—Collective bargaining is imposed by c. 13 on an employer as an obligation when he has more than fifteen employees, who through their chosen representative union desire to bargain with him. Refusal renders him liable to a fine of $100 or thirty days' imprisonment in default.

Child Labour.—The assent of the Province to the International Convention (1937) concerning the minimum age for the admission of children to industrial employment is contained in c. 21.

Reconstruction.—An advisory Reconstruction Committee consisting of twenty-five members is constituted by c. 25 to study the conditions likely to arise during or after the conclusion of the war and to recommend plans and policies to meet them.

Liquor Licensing.—Social service workers are authorized by c. 26 to work under the direction of the Attorney General to endeavour to alleviate and remedy any or all circumstances of family distress resulting from the use of intoxicating liquor.

Civil Service.—The provision for superannuation of persons employed in the public service of the Province is now contained in c. 31.

Surveyors.—The Prince Edward Island Co-ordinate System used by the Geodetic Survey of Canada is established in the Province by c. 33 and provision made respecting land surveys and land surveyors.

Town Planning.—By c. 32 a comprehensive zone system covering one or more municipalities can be put into operation.

9. QUEBEC

[*Contributed by* The Hon. Mr. Justice Fabre Surveyer.]

Public Statutes: 70 ; Private Statutes: 56.

Family Allowance.—The preamble to c. 6 states that since the family is the basic unit of society, it is in the public interest for the State to join with parents in giving children the physical, moral and intellectual training to enable them to contribute fully to the intellectual and economic life of the country ; in particular, the State owes special care to large families.

The Act, therefore, empowers the Cabinet to make agreements at its discretion with the Federal Government to establish a just and efficacious system of family allowances in conformity with Provincial interests and constitutional rights, the expenses for the carrying out of the Act, which came into force February 22, to be paid from the consolidated revenue fund.

Revenues.—In order to give to the Province taxing power compatible with the full exercise of its rights under the Federal Pact, and to obtain an equitable division of the national income, c. 7 authorizes the Cabinet to make a settlement ending the agreement under 1942 George VI, c. 27, which was declared obligatory June 3, 1942, by proclamation of the Lieutenant-Governor-in-Council.

Montreal University.—C. 9, amending the Act to come to the assistance of Montreal University, 1942 George VI, c. 69 as amended by various Acts, enables the Cabinet to appoint an inquiry-commissioner and an auditor and to authorize the payment by the Provincial Treasurer of an additional sum of four hundred and twenty-five thousand dollars per annum for a period of two years after and including the financial year 1944–1945. The President of the Executive Council is charged with the carrying out of the Act.

Maritime Transportation.—Since the welfare and progress of the Magdalen Islands are linked closely with external trade, c. 11 enacts that the Cabinet if recommended by the Minister of Game and Fisheries may authorize the Treasurer to pay to the *Coopérative de Transport maritime et aérien* an annual subsidy up to twenty-five thousand dollars during a period of five years for the operation of two cargo ships in the navigation season. The Act also regulates concerning the building of ships, their tonnage, etc.

Legislature Library.—C. 14, amending c. 4, 1941 Revised Statutes, increases the staff of the Library of the Legislature.

Courts of Justice.—C. 18 amends the Courts of Justice Act, 1941 Revised Statutes, c. 15, as amended by various Acts. The Cabinet is empowered to appoint an Associate Chief District Magistrate in addition to the Chief District Magistrate ; their administrative jurisdiction and powers, etc., are delineated by the Act, which also provides a pension of twelve hundred dollars for the widow of any Judge of the Peace appointed after January 1, 1937, who was in office more than six years and died before the date of the coming into force of this Act, March 23, 1945, the pension to be payable from the consolidated revenue fund.

Judges of the Sessions and District Magistrates.—Under c. 20, a Judge of the Sessions is empowered to act in quasi-judicial employments, as president or chairman, or vice-president or vice-chairman, of any commission, board, bureau or committee instituted under a Provincial law and with its members appointed by the Cabinet.

Transportation and Communication Board and Electricity Board.—C. 21 repeals cc. 16 and 99, 1941 Revised Statutes and creates the Provincial Transportation and Communication Board for the purpose of supervising and controlling certain designated services for transmission of telegraphic or telephonic messages, conveyance of passengers or goods, highway transport, etc. The board is composed of four controllers appointed by the Cabinet which also fixes their salaries ; the head office of the board is in the City of Quebec, and the controllers are not permitted to engage in any other occupation. The Act also regulates in regard to the appointment of secretaries, accountants, etc., and the board is required to send an annual report to the Attorney-General.

In addition, the Act creates a Provincial Electricity Board and regulates its composition, powers, jurisdiction, physical assets, etc.

Jury.—By c. 22, repealing the Jury Act, c. 19, 1941 Revised Statutes, various new provisions are enacted. A juror is now required to be a Canadian citizen whereas formerly, he was obliged to be a British subject by birth or naturalization ; a permanent jury list is made for every judicial district for jury trials in civil as well as in criminal matters, a special officer is appointed by the Cabinet to prepare and revise the jury list, and in case of its loss or destruction to draw up another list or replace any portion lost or destroyed. The jurors are chosen by lots in a designated manner before a clerk of the Crown in criminal trials and before the prothonotary in civil trials. The Act also adjudicates concerning supplementary panels, indemnity to jurors and penalties.

Reformatory Schools.—Under c. 24, the preparation and supervision of programmes of study in Reformatory Schools devolves upon the Department of Education.

Child Aid Clinic.—The preamble of c. 25 states that juvenile delinquency has been a grave social problem for many years, and since numerous diverse and complex factors contribute to it, each individual case ought to be studied by scientific methods tested by experience.

Accordingly, the Act, in order to assist Judges in ascertaining the particular circumstances and factors of each case and its remedies, enables the Cabinet to organize a service called the " Child Aid Clinic " associated with the Juvenile Delinquents' Court, and to appoint as members, specialists in psychiatry,

psychology and medicine and any employees needed for the service, the staff being under the Civil Service Act and the Pension Act. The specialists are obliged to examine each juvenile delinquent carefully and deliver a report to the Judge hearing the case. The expenses for the carrying out of the Act are to be paid from the consolidated revenue fund for the current financial year, and thereafter from moneys voted annually for this purpose by the Legislature. The Attorney-General is charged with the carrying out of the Act.

Youth Establishment.—Since the Canadian Government has agreed to contribute the sum of one million, six hundred and forty-seven thousand, seven hundred dollars for the purpose of aiding youth, provided that the Provincial Government devotes an equal amount, c. 27 enables the Cabinet to authorize the Provincial Secretary to enter into agreements with any person, firm, corporation, institution or Government to facilitate Youth Establishment and to pay an amount equal to that contributed by the Canadian Government. The Provincial Government is, moreover, authorized to do everything necessary for the carrying out of the Act.

Colonization.—Because the cultivation of the soil is one of the principal bases in this Province of a sound economy, a guarantee of stability and social order and a source of national vigour making for continuity and survival, c. 33 organizes colonization according to progressive and rational methods and empowers the Government to make and carry out, within the next four years, a general plan of colonization and to spend out of the consolidated revenue fund, a sum up to sixteen million dollars ; for this purpose, the Cabinet may authorize the Minister of Colonization to make agreements with Governments, organizations, corporations, etc.

Level Crossings.—C. 38 enacts that the Cabinet may authorize the Minister of Roads to carry out works at his discretion for the abolition of level crossings and for this purpose to make the necessary arrangements with local Governments. In carrying out this Act the Government is authorized to spend a sum up to two million dollars.

Apprenticeship Assistance.—In order to assist in the adaptation, and readaptation of injured workmen, persons wounded in war and the infirm, c. 41 provides for the formation of apprenticeship commissions and the establishment of apprenticeship centres.

Rural Electrification.—Under c. 48, a corporation with corporate seat in the City of Quebec, and called the Rural Electrification Bureau, is created with three members appointed by the Cabinet, of which one member represents the agricultural class and with all members remaining in office for ten consecutive years, the Bureau having the rights and powers belonging generally to corporations and subject to the same obligations when consistent with the Act ; the members of the Bureau are not personally liable for any act if done in good faith in performance of their duties. The Act further delineates the special powers of the Bureau, among them being the power to acquire and possess the necessary movable and immovable property, to lease, hypothecate or sell its property, to divide the Province into rural electrification zones and to make loans to electricity co-operatives ; the Act enables the Bureau to fix conditions of engagement, the powers and duties of employees, officials, etc., and generally to promote the expansion and progress of rural electrification and enables the Cabinet to authorize the Provincial Treasurer to lend or pay to the Bureau the sums required under the Act out of the consolidated revenue fund ; it also authorizes the Bureau to contract loans and to spend up to twelve million dollars for the carrying out of this Act.

Moreover, the Act provides for the formation of co-operatives for the production, transmission, distribution and sale of electricity in rural municipalities, and regulates that the co-operatives function as Joint Stock Companies with the responsibility of their members limited to the amount of their investments. The powers of the co-operatives are detailed: they are to be administered by a Board

of Directors, and the general meeting of the association composed of all the members is empowered to make, amend, or repeal by-laws fixing the conditions and qualifications for membership in the co-operative, the price of electricity and charges for the rental of meters to measure consumption.

Broadcasting Service.—In order that the import and justice of the claims and aspirations of the Province of Quebec may be thoroughly understood, c. 56 establishes the "Quebec Radio Bureau," an administrative body composed of three persons appointed by the Cabinet and having the rights and powers of a corporation for the purpose of possessing and operating a broadcasting system under the name of "Radio-Quebec."

The Bureau, under the direction of the Cabinet, is specially charged with preparing programmes, gathering news and broadcasting it by radio, making agreements to broadcast for remuneration artistic, commercial and other programmes furnished by third parties, etc.

The Department of Education is responsible for the preparation of educational programmes, and the President of the Executive Council is charged with the carrying out of the Act.

Public Curatorship.—C. 62 authorizes the appointment of a Public Curator to act as curator *ex officio* to non-interdicted insane persons in lunatic asylums and to successions declared vacant, the curator to have the seizin of ownerless property and of property devolving to the Crown by failure of heirs or by forfeiture. The Act amends the Civil Code, the Code of Civil Procedure and various Acts.

Individual Property of the Consort.—C. 66 amending article 1279 of the Civil Code, increases the powers of the married woman and decrees that compensation received by a consort after the celebration of marriage as damages for injury, for personal wrongs or for bodily injuries, resulting from offences or quasi-offences, as well as the right to such compensation and the action consequent thereon, is the individual property of either consort.

Boundaries.—C. 66 enables every proprietor to compel his neighbour to settle the boundaries between their contiguous lands by mutual consent, or judicial authority.

Code of Civil Procedure.—Considering that it is very important to society that courts of justice be easily accessible to citizens of all classes and conditions and to make procedure less costly and more expeditious, c. 69 provides for a general revision of the Code of Civil Procedure and authorizes the Cabinet to appoint a commissioner from amongst the members of the Provincial Bar, having at least ten years' practice, in order to study and prepare amendments to the Code and to suggest the needed reforms, preserving, however, the character and essential traditions of the juridical institutions of Quebec.

10. SASKATCHEWAN

[*Contributed by* J. P. RUNCIMAN, ESQ., *Legislative Counsel.*]

OF the 120 Acts passed 118 were Public and 2 Private.

Elections.—Persons of the full age of eighteen years may now by c. 3 vote at elections of members of the Legislative Assembly, if otherwise qualified, and persons of that age may be candidates for election as members of the Assembly, if otherwise qualified. Hitherto the required age was twenty-one years.

Power Commission.—The Saskatchewan Power Commission was authorized by No. 15 to acquire shares of the capital stock of any incorporated company carrying on in the Province the business of generating, transmitting or supplying electricity, subject to the condition that sufficient shares must be acquired to ensure that the commission will have control of the company, and provision was also made for the appointment of a person or persons to represent the commission at meetings of the company.

Crown Corporations.—No. 17 empowers the Lieutenant-Governor-in-Council to appoint from time to time one or more persons to operate any designated industrial or commercial enterprise or undertaking, the operation of which on behalf of the Province is deemed advisable for the public good, and provides that the persons originally appointed and their successors in office shall be a corporation under a name to be designated by the Lieutenant-Governor-in-Council, with the usual corporate powers. Power is given to the Lieutenant-Governor-in-Council to expropriate land, and any works used in the operation of any industrial or commercial enterprise or undertaking carried on in the Province, where expropriation is deemed necessary for the purpose of any business operated or to be operated by a Crown corporation. The Lieutenant-Governor-in-Council is also authorized to purchase shares of the capital stock of any incorporated company carrying on in the Province any industrial or commercial enterprise or undertaking, with a view to control of the company by the Province, where it appears that such control is advisable for the public good, subject to the condition that sufficient shares must be acquired to ensure that the Province will have control of the company. The Act also provides for the appointment of a person or persons to represent the Government at meetings of the company.

Marketing of Natural Products.—S. 5 of No. 18 declares that the purpose and intent of the Act is to provide for the promotion, control and regulation in any or all respects of the transportation, packing, storage and marketing of natural products which are within the Province, including the prohibition of such transportation, packing, storage and marketing in whole or in part. The expression "natural product" is defined as "any product of agriculture or of the forest, sea, lake or river, animals including poultry whether alive or killed, skins and pelts of fur bearing animals, meats, eggs, wool, dairy products, grains, seeds, fruit, fruit products, vegetables, vegetable products, honey, tobacco, lumber and any article of food or drink, wholly or partially manufactured or derived from any such product. The Lieutenant-Governor-in-Council is authorized to establish schemes for the control and regulation within the Province of the transportation, packing, storage and marketing of any natural product, to constitute marketing boards to administer such schemes and to vest in those boards respectively any powers considered necessary or advisable to enable them effectively to control and regulate the transportation, packing, storage and marketing of any natural products which are within the Province and to prohibit such transportation, packing, storage and marketing in whole or in part. Schemes may relate to the whole of the Province or to any area within the Province and may relate to one or more natural products or to any grade or class thereof.

Succession Duty.—By No. 20 amending the Succession Duty Act the duty payable by a person who is the wife or child of the deceased is reduced ; the discrimination against illegitimate children is removed ; the duty payable by a beneficiary who is in a remote degree of consanguinity or a stranger in blood to the deceased is increased ; the rate of surtax is raised from ten to twenty per cent. ; and the rate of interest payable on unpaid succession duty is decreased from six to five per cent. per annum from the first day of May, 1945.

Wills.—A provision placed by No. 23 in the Surrogate Courts Act authorizes a solicitor retiring from practice, the personal representative of a deceased solicitor, a trust company which has ceased to have an office in the Province or which has ceased to be an approved trust company, or the liquidator or receiver of a trust company, to deposit with the clerk of a surrogate court for safe-keeping any will in the custody of such solicitor, personal representative or trust company, without specific authority from the testator.

Evidence.—A section inserted by No. 24 in the Saskatchewan Evidence Act at the 1943 session was repealed and substituted by a provision of wider scope, adopted by the Conference of Commissioners on Uniformity of Legislation in Canada. The new section provides that, where a bill of exchange, promissory

note, cheque, receipt, instrument, agreement, document, plan or a record or book or entry therein kept or held by any person:—

(*a*) is photographed in the course of an established practice of such person of photographing objects of the same or a similar class in order to keep a permanent record thereof ; and

(*b*) is destroyed by or in the presence of the person or of one or more of his employees or delivered to another person in the ordinary course of business or lost ;

a print from the photographic film shall upon certain proof be admissible in evidence in all cases and for all purposes for which the object photographed would have been admissible.

"Person" is defined as including: (*a*) the Government of Canada and of any Province of Canada and any department, commission, board or branch of any such government ; (*b*) a corporation ; and (*c*) the heirs, executors, administrators or other legal representatives of a person.

Attachment of Debts.—The right to attach a debt due or accruing due to a city, town, village or rural municipality was taken away by No. 26 amending The Attachment of Debts Act, and another amendment increased the exemption of wages or salary from attachment to $100 per month in the case of a married person and $60 in the case of an unmarried person, formerly $75 and $40 respectively. For this purpose an unmarried person supporting one or more dependants is in the same class as a married person.

Coroners.—(No. 29.) Coroners were given the powers of justices of the peace with respect to the summoning of witnesses and compelling their attendance.

Public Utilities Companies.—A new section placed by No. 32 in the Public Utilities Companies Act confers upon the Local Government Board wide powers of supervision with respect to any corporation operating a street railway or motor omnibus system under a franchise granted by an urban municipality. Another new section gives the board power to cancel or vary any franchise agreement for the supply of water, gas or electric energy or the operation of a street railway or motor omnibus system within an urban municipality.

Housing.—(Nos. 37 and 38.) City and town councils were authorized to enter into agreements with Wartime Housing Limited (a corporation created by the Parliament of Canada) for the erection and equipping of houses by that corporation ; and an amendment to The Housing Act (No. 57) provides that, with the consent of the Local Government Board, any urban municipality may by by-law do any act or thing contemplated by, or required to be done by a municipality under, The National Housing Act, 1944, of Canada or the regulations thereunder.

Urban and Rural Planning and Development.—No. 51 is a consolidation and revision of The Town Planning Act. The new Act embodies some of the principles of the Acts of other provinces, particularly British Columbia and Alberta. Otherwise the new Act (The Community Planning Act) is much the same as the former Act.

Education of Soldiers' Dependent Children.—Amendments by No. 70 to the Education of Soldiers' Dependent Children Act extend the benefits of the Act to children of deceased or disabled persons who served in any of the Naval, Military or Air Forces of His Majesty or any of His Majesty's Allies or Associate Powers in the recent war. The Act was originally passed just after the war of 1914–1918.

Veterinary Services in Rural Areas.—No. 75 is a new Act authorizing the council of a rural municipality to enter into an agreement with one, two or three contiguous rural municipalities for the establishment of a Veterinary Service District. Representatives of the co-operating municipalities, a corresponding number of persons appointed by the Government and the agricultural representative for each co-operating municipality are constituted a Veterinary Service Board, and this board is empowered, *inter alia*, to render financial or other

assistance to enable and encourage veterinarians to practise in the district at uniform fees throughout the district, and to prevent the spread of diseases among animals through the imparting of information and instruction and such other means as may be found necessary. The expenses of the board are met from contributions by the co-operating municipalities and by the Government.

King's Counsel.—No. 81 amending The King's Counsel Act provides that no appointment of a King's Counsel shall be made (by the Lieutenant-Governor-in-Council) unless it is first approved by a committee consisting of the Attorney General, the Chief Justice of Saskatchewan, the Chief Justice of the Court of King's Bench and two benchers of the Law Society of Saskatchewan to be appointed for the purpose in convocation.

Physiotherapy.—No. 84 is a new Act creating a corporation to be known as The Saskatchewan Physical Therapists Association with powers and duties similar to those usually conferred upon professional bodies corporate.

Marriage.—No. 85 amending the Marriage Act provides that medical examinations of the parties shall take place within thirty days (hitherto ten days) immediately preceding the date of the solemnization of the marriage and that examinations shall include a serological test for syphilis in a laboratory approved by the Minister of Public Health.

Vehicles.—No. 98 is a consolidation and revision of the Vehicles Act. The Act provides for the registration and licensing of motor vehicles and the licensing of operators and chauffeurs, and further provisions deal with the accommodation and equipment of motor vehicles, speed and other rules of the road, reports of accidents, and financial responsibility of owners and operators. The Highway Traffic Board is continued, with sole jurisdiction.

Workmen's Compensation.—No. 103, amending the Workmen's Compensation Act provides that, in case of the death of a workman by accident arising out of and in the course of his employment, if there is no executor or administrator or, there being an executor or administrator, if no action is brought by him within six months after the death, an action may be brought by all or any of the persons for whose benefit the action would have been if it had been brought by an executor or administrator, and that every action so brought shall be for the benefit of the same persons as if brought by an executor or administrator.

No. 104 amending The Workmen's Compensation (Accident Fund) Act provides that, if an injury disables a workman longer than three days, compensation shall be payable from the date of the accident. Hitherto no compensation other than medical aid was payable for the first three days of disability. Another amendment provides for the appointment of a committee at least once every four years to review and report upon all matters concerning the Act, the regulations and the administration thereof specified by the Lieutenant-Governor-in-Council.

The Blind Workmen's Compensation Act (No. 105, a new measure) provides that, where the full cost of compensation exceeds $50, the Department of Labour shall in cases arising under The Workmen's Compensation (Accident Fund) Act pay the amount by which the full cost of compensation exceeds $50 to the Workmen's Compensation Board by way of reimbursement to the accident fund, and in cases arising under The Workmen's Compensation Act shall pay the said amount to the employer, upon receipt from the board of a certificate of the full cost of compensation, which certificate may be accepted by the department without further proof. "Blind workman" means a workman as defined by The Workmen's Compensation (Accident Fund) Act or The Workmen's Compensation Act, as the case may require, possessing a central visual acuity in his better eye reading 6-60 or 20-200 or less.

Archives.—No. 113 is a new Act providing for the establishment at the University of Saskatchewan of an office, to be known as the Archives of Saskatchewan, for the safe-keeping, classification, indexing and calendaring of all public documents transferred thereto. All public documents must be preserved

by the department to whose business they belong until their transfer to the archives or the Legislative Library or their destruction is ordered by the Lieutenant-Governor-in-Council. Provision is also made for the appointment of a board which shall have general supervision of the archives and of all historic sites held by the university in trust for His Majesty.

Bird Emblem.—The prairie sharp-tailed grouse (pediœcetes phasianellus campestris) is adopted by No. 114 as the bird emblem of the Province.

11. NEWFOUNDLAND

[*Contributed by* H. G. PUDDESTER, ESQ., K.C., LL.B.]

DURING the calendar year 1945 forty-nine Acts were passed. Many of these Acts make minor amendments or involve administrative matters of merely local interest. Only those referred to seem likely to be of any general interest.

Goose Bay Airport.—No. 1 confirms the Agreement between the Governments of Newfoundland and Canada about Goose Airport and authorizes the leasing of the Airport to Canada for ninety-nine years from September 1, 1941. The Agreement provides for the management and control of the Airport by Canada during the war, the construction of roads, power plants, radio stations, docks, etc., for the purposes of the Airport and the use of the Airport by military aircraft of the United Kingdom and of the United States of America and the stationing there of Naval and Air Force military personnel. The question of the use of the Airport after the war for civil and commercial purposes is to be discussed by the Governments of Newfoundland, the United Kingdom and Canada within twelve months after the war. Newfoundland law applies throughout the Airport. The Government of Canada agrees not to transfer without the consent of the Government of Newfoundland to any third party any of the rights, powers and authority granted by the Agreement.

Housing.—No. 7 authorizes the making of loans by the Government to Housing Associations and the taking of mortgages, bonds or other securities in relation to any loan granted under the Act. The Government may limit the classes of Housing Associations to which loans may be made.

Salt Fish.—No. 10 provides for an export levy to be paid by licensed exporters upon salt fish produced during 1945. A marketing fund is established, into which the Government is to pay amounts equivalent to the sums paid by the exporters. The money is to be applied to the assistance of the fishing industry generally or particularly.

Sealskins and Fish.—No. 11 provides for the payment by exporters of a levy upon salted sealskins and salted or pickled fish of certain types. The Commissioner for Natural Resources is to receive from the Government amounts equivalent to the sums paid by exporters. The money is to be applied to the assistance of the fishing industry generally or particularly.

Legitimacy.—No. 16 provides for the legitimation of an illegitimate child whose parents marry each other after the birth of such child. The legitimation dates from the date of the passing of the Act or from the date of the marriage whichever last happens. Provision is also made for the passing of property on the intestacy of either the legitimated person or of his next of kin. An illegitimate child not legitimated and the mother of such child are to succeed to property on the intestacy of the other.

Bait Fishes.—No. 20 suspends the operation of c. 156 of the Consolidated Statutes (Third Series) (which deals with the exportation and sale of bait fishes) as respects herring from June 1, 1945, to May 31, 1946.

Income Tax.—No. 30 imposes a tax of 15 per cent. on all non-residents in respect of the gross amount of all royalties and similar payments for the use in Newfoundland of personal property, patents and copyrights or for anything used or sold in Newfoundland, excluding copyright relating to books and articles or

features in periodicals and newspapers. The tax imposed must be collected by the debtor, who shall withhold fifteen per centum of the royalty or similar payment and remit the same to the Assessor of Taxes.

Bretton Woods Agreements.—No. 48 authorizes the Governor in Commission to make by Order in Commission such provision as he may consider reasonably necessary for putting into effect any of the provisions of the Agreement for the establishment and operation of the International Monetary Fund and of the Agreement for the establishment of the International Bank for Reconstruction and Development, relating to the status, immunities and privileges of the Fund and the Bank and their respective governors, executive directors, alternates, officers and employees, or any of the provisions of the Fund Agreement as to the unenforceability of exchange contracts.

12. BERMUDA

[It is hoped to publish the review next year.]

III. AUSTRALIA

1. COMMONWEALTH OF AUSTRALIA

[*Contributed by* M. C. Boniwell, Esq., C.B.E., LL.B., *Acting Parliamentary Draftsman.*]

Fifty-nine Acts were passed during 1945.

Among the many important Acts passed during 1945 were the Charter of the United Nations Act, the Re-establishment and Employment Act, the Banking Act, the Commonwealth Bank Act, the Australian National Airlines Act and the War Crimes Act.

Airlines.—The Australian National Airlines Act (No. 31) provides for the establishment and operation of national airline services by the Commonwealth. The Act constitutes the Australian National Airlines Commission which is empowered to maintain and operate airline services in the Commonwealth and its Territories. The Commission may compulsorily acquire aircraft or other property for its purposes. Part IV of the Act, *inter alia,* purports to render inoperative an airline licence held by another person in respect of certain air services where an airline licence is issued to the Commission in respect of the same services.[1]

Assistance to States.—The Drought Relief Act (No. 17) increases the amount available to the States for drought relief by £355,000. The States Grants Act (No. 53) grants and applies an amount of £2,966,000 for the financial assistance to the States of South Australia, Western Australia and Tasmania. The amount payable to South Australia is £1,400,000, to Western Australia £950,000 and to Tasmania £646,000.

Banking.—The Banking Act (No. 14) makes provision for the regulation of banking and the protection of the currency and the public credit of the Commonwealth. A body corporate is not to carry on the business of banking unless it is authorized by the Governor-General. The Act provides that it is the duty of the Commonwealth Bank to exercise its powers and functions for the protection of the depositors of the several banks. The Commonwealth Bank is empowered to require each bank to transfer to the Commonwealth Bank from time to time an amount of sterling equivalent to a proportion of the Bank's excess receipts of foreign currency and the Commonwealth Bank is to pay for such in Australian currency. The Act enables the Commonwealth to determine the policy, in relation to advances, to be followed by banks and each bank is to follow that policy. The Commonwealth Bank may give directions as to the classes of purposes for

[1] This Act was considered by the High Court in *Australian National Airways Pty. Ltd.* v. *The Commonwealth* (1946) 71 C.L.R. 29, and was held to be within the legislative power of the Commonwealth Parliament but the provisions of the Act which purported to give the Commission a monopoly in respect of services between States were held to be invalid because they offended against s. 92 of the Constitution.

which such advances may be made. The Commonwealth Bank Act (No. 13) repeals the Commonwealth Bank Act, 1911, and amending Acts. The Commonwealth Bank is continued in existence. It is required to inform the Treasurer from time to time of its monetary and banking policy, and, in the event of any difference of opinion between the Bank and the Government as to this policy, the Treasurer may inform the Bank that the Government accepts responsibility for the adoption of a policy in accordance with the opinion of the Government and the Bank is to give effect to that policy. The Bank is to act as a central bank and as banker and financial agent of the Commonwealth. Part XI of the Act enables the Bank to grant loans to individuals and building societies for the erection or purchase of houses or for the discharges of mortgages on homes.

Bankruptcy.—The Bankruptcy Act (No. 42) amends the Bankruptcy Act, 1924–1933, by inserting therein a provision fixing the salary of a Judge of the Court of Bankruptcy at £2,500 a year and making provision for a pension on his retirement. It also inserts in the Act a provision which enables a trustee of a deed of arrangement to be removed on application of a creditor or debtor.

Child Endowment.—The Child Endowment Act (No. 10) amends the Child Endowment Act, 1941-42, by increasing the rate of endowment for every endowed child from 5/- per week to 7/6 per week.

Education.—The Education Act (No. 55) establishes a Commonwealth Office of Education the functions of which are to advise the Minister on matters relating to education, to establish and maintain liaison on matters relating to education with other countries and the States, to arrange consultation between Commonwealth authorities in relation to education, to undertake research work relating to education and to advise the Minister concerning the grant of financial assistance to the States for educational purposes. The Act also constitutes the Universities Commission. The functions of the Commission include arranging for training in Universities for the purpose of facilitating the re-establishment of persons discharged from the Forces and also assisting others to obtain such training.

Electoral.—The Commonwealth Electoral (War-time) Act (No. 12) amends the Commonwealth Electoral (War-time) Act, 1940–1944, to make the provisions applicable to a by-election of the House of Representatives as well as a general election or referendum.

External Affairs.—The Charter of the United Nations Act (No. 32) approves the Charter of the United Nations signed at San Francisco on June 26, 1945. The War Crimes Act (No. 48) authorizes the Governor-General to convene military courts for the trial of persons charged with the commission of war crimes. Such war crimes are violations of the laws and usages of war whether committed within or beyond Australia during any war. Sentence of death is not to be passed by a military court without the concurrence of all members of the court if the court consists of not more than three members or at least two thirds of the members of the court if the court consists of more than three members.

High Commissioner.—The High Commissioner Act (No. 54) amends the High Commissioner Act, 1909–1940, by the insertion of a provision which enables the Governor-General to issue to any Minister or Member of the Executive Council a Commission authorizing him to exercise the powers and perform the duties conferred upon or assigned to the High Commissioner for Australia in the United Kingdom.

Housing.—The Commonwealth and State Housing Agreement Act (No. 44) authorizes the execution of an agreement between the Commonwealth and the States in relation to housing. Under the agreement each State undertakes to ensure that there will be adequate legislation in the State to control rental housing projects, slum clearage and town-planning. Each State undertakes to establish minimum and maximum standards in carrying out housing projects and the allocation of dwellings between metropolitan and country areas. The Commonwealth undertakes to advance to each State the moneys to be expended for housing

projects, which moneys are to be repaid to the Commonwealth over a period of 53 years. The Loan (Housing) Act (No. 45) authorizes the Treasurer to borrow £15,000,000 for making advances to the States for the purposes of the housing agreements made with the States.

Inscribed Stock.—The Commonwealth Inscribed Stock Act (No. 26) amends the Commonwealth Inscribed Stock Act, 1911–1943. The amendments will enable the Registrar of Stock to accept evidence of authority to administer an estate other than the will or letters of administration in cases of the transmission of stock on death of the owner. They also exempt from the payment of stamp duty documents, cheques and drafts relating to the conversion or redemption of securities.

Insurance.—The Life Insurance Act (No. 28) repeals the Life Insurance Companies Act, 1905, and provides that the Insurance Act, 1932–1937, shall cease to apply in relation to life insurance. The Act applies to life insurance to the exclusion of certain State Acts. An Insurance Commissioner is to be appointed and charged with the general administration of the Act. A company is not to carry on life insurance business unless it is registered under the Act. Deposits are to be made by life insurance companies varying from £50,000 to £5,000 as security for the discharge of liabilities. A life insurance company is prohibited from issuing any policy unless the rates of premium are approved by an actuary. The Act authorizes the establishment of the Commonwealth Government Insurance Office which may carry on life insurance business.

Matrimonial Causes.—The Matrimonial Causes Act (No. 22) enables proceedings to be taken in matrimonial causes in relation to marriages celebrated in Australia on or after September 3, 1939, where the husband was at the time of the marriage not domiciled in Australia and the wife was at the time of the marriage domiciled in the Commonwealth. The Act will facilitate divorce proceedings against members of overseas forces who are not domiciled in Australia. The Act will, furthermore, permit a person domiciled in a State or Territory of the Commonwealth and resident in another State for not less than a year to institute proceedings in matrimonial causes in the State in which that person is resident notwithstanding that he or she is not domiciled in that State.

Motor Vehicles.—The Motor Vehicles Manufacture Legislation Repeal Act (No. 1) repeals the Motor Vehicle Engine Bounty Act, 1939, and Motor Vehicles Agreement Act, 1940. It provides that any right or claim which Australian Consolidated Industries Limited may have against the Commonwealth shall not be affected by such repeal.

National Debt.—The National Debt Sinking Fund Act (No. 27) amends the National Debt Sinking Fund Act, 1923–1934, by inserting a provision to the effect that for the purposes of contributions to the National Debt Sinking Fund all calculations in relation to overseas debts shall be made at the minimum par of exchange prevailing on July 1, 1930.

Pensions.—The Invalid and Old-Age Pensions Act (No. 7) increases the maximum amount of invalid and old-age pension from 27/– per week to 32/6 per week. It also increases the maximum rate of pension payable to inmates of benevolent institutions from 9/6 per week to 11/6 per week. The Widows' Pensions Act (No. 56) increases pensions and allowances paid to widows. The pensions payable to a widow maintaining one or more children is increased by 5/6 to 37/6 per week. The allowance payable to a widow not maintaining a child and less than 50 years of age and in necessitous circumstances is increased from 27/– per week to 32/6 per week. The National Welfare Fund Act (No. 41) provides for appropriation from the National Welfare Fund for the purpose of payment of invalid and old-age pensions, widows' pensions and child endowment.

Public Service.—The Commonwealth Public Service Act (No. 29) makes provision for certain employees of the States who are performing or who have performed duties on behalf of the Department of Labour and National Service to

be appointed to the Commonwealth Public Service. The officers concerned are employed in the Commonwealth Employment Service. The Commonwealth Public Service Act (No. 2) (No. 43) authorizes the establishment of a Joint Council and of Classification Committees in the Public Service. The Joint Council is to be representative of the Public Service Board and of organizations of officers. The Joint Council is to deal with such matters of general interest in relation to the Commonwealth Service as are referred to it by the Public Service Board. The Classification Committees are to deal with matters affecting the classification of officers of the Public Service. Its precise functions are to be laid down by regulation. The Act also makes provision for the re-appointment to the public service of officers and temporary employees who have resigned to become candidates at parliamentary elections and have failed to be elected. It also sets up Promotions Appeal Committees to deal with appeals by officers in the case of promotions. The Superannuation Act (No. 15) makes certain machinery amendments to the Superannuation Act, 1922–1943. A temporary employee in the public service is given the right to contribute for superannuation if his employment is certified as likely to continue for ten years. A contributor who is debarred from contributing for additional pension units on account of medical defects will be permitted so to contribute if such defects are the result of war service. The Superannuation Act (No. 2) (No. 30) inserts in the Act provisions to grant superannuation rights to certain former State employees who are employed by the Commonwealth in or on behalf of the Department of Labour and National Service.

Re-establishment and Employment.—The Re-establishment and Employment Act (No. 11) provides for the re-establishment in civil life of members of the Armed Forces and for facilitating their employment. A lengthy portion of this Act relates to the civil employment of discharged men and women. Any person who has completed a period of war service may apply to his former employer for re-instatement in employment and the employer is required to make such employment available. An employer shall engage in employment a person entitled to preference under the Act in preference to any other person. A Central Preference Board is set up and Regional Preference Boards may be appointed. The Act contains provisions relating to the revival of contracts of apprenticeship and to the rights of apprentices. Provision is also made for the establishment of a Commonwealth Employment Service to provide services and facilities in relation to employment of discharged Service personnel. Discharged members of the Forces may avail themselves of vocational training and disabled persons may receive special treatment. Loans may also be granted by way of financial assistance to members to establish themselves in business or in a civil occupation. The amount of these loans varies from £250 to £1,000. A Part of the Act enables the Commonwealth to make advances to a State to enable the State to acquire land for the purpose of settlement by discharged members and to develop and improve the land. The Minister is empowered to enter into an agreement with any State for the allocation of dwelling-houses among discharged members of the Forces. The Act continues in existence the Legal Aid Bureaux already established and embodies certain provisions relating to war service moratorium.

Science and Industry Research.—The Science and Industry Research Act (No. 25) increases the membership of the Commonwealth Council for Scientific and Industrial Research by two additional members. It also increases the number of members of the Council necessary to constitute a quorum from five to six.

Social Services.—The Hospital Benefits Act (No. 47) authorizes the execution on behalf of the Commonwealth of agreements with the States relating to the provision of hospital benefits. The Act authorizes payments to the States of an annual sum of £500,000 to be paid from the National Welfare Fund. The

amounts paid to each State represent financial assistance in respect of beds occupied by qualified persons in public and non-public wards in public hospitals. The Pharmaceutical Benefits Act (No. 35) makes certain machinery amendments to the Pharmaceutical Benefits Act, 1944, in relation to approved pharmaceutical chemists, approved hospital authorities and prescriptions by medical practitioners.

Special Annuity.—The Special Annuity Act (No. 21) provides for the payment of an annuity of £500 per annum to the widow of the late Prime Minister, the Rt. Hon. John Curtin.

Taxation.—(i) *Income Tax.* The Income Tax Act (No. 5) imposes income tax which is levied on incomes for the financial year commencing on July 1, 1945. On taxable income derived from personal exertion the rate is 6d. in the pound in respect of incomes not exceeding £300 and rises to a rate of 18/6 in the pound if the taxable income exceeds £5,000. The rate of tax on income derived from property is 6d. in the pound where income does not exceed £200 and increases to 18/6 in the pound on income exceeding £5,000. The rate of tax payable by a company is 6/– in the pound and, in the case of a mutual life assurance company, 5/– in the pound. The Income Tax Act (No. 2) (No. 38) amends the last named Act and reduces the rate of income tax. If taxable income from personal exertion does not exceed £200, no tax is payable. If such income exceeds £200 the tax is 3d. in the pound and increases to 15/2 in the pound on incomes exceeding £5,000. In the case of income from property no tax is payable on such income if it does not exceed £200. The Income Tax Assessment Act (No. 4) amends the Income Tax Assessment Act, 1936–1944. It provides that no person with a dependant for whom a rebate is allowable in respect of wife, child, mother or housekeeper shall be required to pay tax if his income does not exceed £156. A taxpayer who, in consequence of the compulsory acquisition of his land disposes of his live stock, is empowered to make an election as to the amount of profit, arising from the disposal, which is to be included as income of the year in which the disposal is effected. The principal portion of the Act is a provision under which persons living in isolated areas referred to as Zone A and Zone B will receive income tax concessions of £40 in the case of Zone A and £20 in the case of Zone B. Zone A includes the most northern portions of Australia and Zone B the central and western portions. The Income Tax Assessment Act (No. 2) (No. 37) provides that the taxable income of a person does not include an income not exceeding £200. It also provides for the allocation of the amounts received by the Commissioner of Taxation under the Income Tax Assessment Act and the Social Services Contribution Act.

(ii) *Sales Tax*—The Sales Tax (Exemptions and Classifications) Act (No. 36) exempts certain goods from sales tax. Among such goods are plant and machinery for use in the manufacture of goods, articles imported for diplomatic representatives, goods used by municipal, shire or district councils, and certain building materials such as window fittings, cooking stoves, electrical fittings and baths. The sales tax on certain articles of rationed clothing is reduced.

(iii) *Social Services Contribution*—The Social Services Contribution Act (No. 40) imposes social services contribution at the rates declared in the Act. The rate of contribution is graduated according to the income of the contributor with a maximum of 1/6 in the pound. The contribution imposed is to be levied and paid for the financial year commencing on July 1, 1946. The Social Services Contribution Assessment Act (No. 39) is the machinery Act relating to the imposition, assessment and collection of social services contribution which is imposed on persons deriving income.

Territories.—The Papua-New Guinea Provisional Administration Act (No. 20) is an Act to provide for the provisional administration of the Territory of Papua-New Guinea. It suspends the operation of most of the provisions of the Papua Act, 1905–1940, and the New Guinea Act, 1920–1935, and confers on the Administrator of the Territory of Papua-New Guinea all powers or functions conferred

on the former Administrators of those Territories. The Governor-General has power to make Ordinances under the Act and a Supreme Court is established. The Act is to continue in operation until a date to be fixed by proclamation but in any event not longer than six months after His Majesty ceases to be engaged in war. The Darwin Lands Acquisition Act (No. 24) authorizes the acquisition by the Commonwealth of certain land in Darwin, the administrative centre of the Northern Territory of Australia, for the purposes of re-planning and development and the institution of a system of leasehold tenure from the Crown in respect of such land. The Seat of Government Supreme Court Act (No. 57) enables the Governor-General to appoint a practising barrister or solicitor of not less than five years' standing to be the Judge of the Supreme Court of the Australian Capital Territory. The Judge is capable of accepting and holding the office of Judge Advocate-General of any part of the Defence Force.

Tuberculosis.—The Tuberculosis Act (No. 46) provides for the payment of certain amounts for financial assistance to the States for use in connection with tuberculosis. The amounts are payable on condition they are applied by the States for the maintenance of diagnostic facilities and after-care facilities. Amounts are payable in respect of patients in hospitals and special allowances may be paid to persons who suffer from tuberculosis.

War Gratuity.—The War Gratuity Act (No. 16) makes provision for the payment of war gratuities to members of the Defence Forces in respect of war service. The rate of war gratuity is £3/15/– for each month of overseas qualifying service and 15/– for each month of general qualifying service. A war gratuity is not claimable or recoverable as a matter of right but is deemed to be a free gift by the Commonwealth. A feature of the Act is the provision for the payment of a war gratuity of 10/– per month to natives of the Torres Strait Islands and aboriginal natives of Australia and a gratuity at prescribed rates to natives of New Guinea and Papua. Payment of war gratuity is to be made at the expiration of 5½ years after the cessation of hostilities.

War Service Land Settlement.—The War Service Land Settlement Agreements Act (No. 52) authorizes the execution by the Commonwealth of agreements with the States in relation to war service land settlement. The agreements provide the basis of a scheme of land settlement to be carried out by the Commonwealth and the States for settling discharged members of the Forces on land allotted under the scheme.

Wine Overseas Marketing.—The Wine Overseas Marketing Act (No. 23) makes certain alterations in the constitution of the Australian Wine Board and of the Executive Committee of the Board.

Wool.—Five Acts relating to wool were passed. The Wool (Contributory Charge) Act (No. 51) imposes a contributory charge on all wool produced in Australia and sold at auction, purchased by a manufacturer, subjected to a process of manufacture or exported from Australia. The rate of the charge is such percentage as is prescribed from time to time of the sale value of the wool. The Wool (Contributory Charge) Assessment Act (No. 50) is the machinery Act relating to the imposition, assessment and collection of the contributory charge. The Commissioner of Taxation has the general administration of this Act. The Australian Wool Realization Commission is to establish appraisement places, and wool is not to be manufactured or exported unless it is appraised by the Commission. Brokers and manufacturers are required to furnish returns of wool sold or manufactured. The Act contains provisions for the collection and recovery of the charge. The Wool Realization Act (No. 49) approves an agreement between the United Kingdom, the Commonwealth of Australia, the Dominion of New Zealand and the Union of South Africa to adopt and carry out a Disposals Plan in relation to wool. The Act constitutes the Australian Wool Realization Commission. The Commission is the subsidiary in Australia of the Joint Organization constituted in accordance with the Disposals Plan. The agreement constitutes

a Joint Disposals Organization for the purpose of buying, holding and selling wool on behalf of the United Kingdom and the three Dominions referred to. The organization is to determine total quantities of wool to be offered from time to time, to prepare schedules of reserved prices, to lift from the market quantities of new wool unsold, to hold and dispose of stocks of wool and to facilitate the sale of wool with a view to stimulating demand. The agreement constitutes a Financial Plan relating to capital contribution, operating expenses, repayment of capital, ultimate profit or loss, taxation and exchange. The Wool Tax Act (No. 2) amends the Wool Tax Act, 1936, by increasing the rates of wool tax from 6d. to 2/– for each bale of wool, from 3d. to 1/– for each fadge or butt of wool, and from 1d. to 4d. for each bag of wool. The increases affect wool received or produced by a wool broker or dealer, or exported, on and after June 1, 1945. The Wool Use Promotion Act (No. 3) is an Act " to make provision for improving the production and increasing the use of wool." It repeals the Wool Publicity and Research Act, 1936. The Act provides for the constitution of a number of authorities the functions of which are associated with the purpose of the Act as indicated in its title. Certain funds and accounts are established, the moneys at credit of which are to be applied in the carrying out of research and in promoting, by publicity and other means, the use of wool.

2. NEW SOUTH WALES

[*Contributed by* J. W. FERGUSON, ESQ., *Under Secretary*.]

1944

THIRTY-EIGHT Acts were passed in the year and they were principally directed to the betterment of social and industrial conditions, the assisting of rural industries and the promotion of rural development.

Holidays.—No. 31 provides that every worker shall, at the end of each year of his employment, become entitled to an annual holiday of two weeks on ordinary pay. The holiday is to be taken in two consecutive weeks or, by agreement between the worker and the employer, in two separate periods. The annual holiday must be given by the employer and taken by the worker before the expiration of six months after the date upon which the right to the holiday accrues, but the giving and taking of the holiday may, with the consent of the Industrial Registrar, be postponed for a period beyond the period of six months where circumstances render such postponement necessary or desirable. There is a prohibition against the employer making, and the worker accepting, payment in lieu of any annual holiday. Seven days' notice must be given to the worker by the employer of the date upon which the holiday is to be taken, and the employer must pay him in advance before the commencement of the holiday, his ordinary pay for the holiday period. Where a special or public holiday for which the worker is entitled to payment under any Act, award or agreement or contract of employment occurs during any period of annual holiday, the holiday period must be increased by one day in respect of each such special or public holiday. Any worker who is employed for a period less than one year must, on the termination of his employment, be paid, in addition to all other amounts due to him, one twenty-fifth of the total amount of his ordinary pay for the period of his employment.

The provisions of this Act do not apply in cases where the worker is entitled under any other Act, award, agreement or contract of employment to any benefit more favourable to him than the benefits of this Act. They do apply, however, in cases where the benefit accruing to the worker is not more favourable. Seven-day shift workers who enjoy, under awards or agreements, extra periods of leave in addition to that normally granted to the day worker, have that benefit preserved to them. Contracting out of the provisions of the Act is prohibited. The employ-

ment of a worker employed at the date of the commencement of this measure is deemed, for the purposes connected therewith, to have commenced on that date, but the worker retains the right to leave accrued under any Act, award, agreement or contract of employment up to the time of such commencement. A holiday record containing the particulars prescribed must be kept by every employer. The provisions of the Industrial Arbitration Act and the Regulations thereunder shall apply to proceedings before a Court of Petty Sessions or an industrial magistrate for the recovery of any penalty, or of any remuneration or payment under this Act. A person is liable to a penalty not exceeding fifty pounds for a breach of the Act.

Apiaries.—No. 22 enlarges the powers of inspectors in regard to the detection and eradication of bee diseases and prohibits the transfer of bees, honey, or anything likely to introduce disease from another State or place to this State or from one part of this State to another. It will now be necessary for beekeepers to register their apiaries annually on payment of prescribed fees. Commercial beekeepers who have effected improvements to established apiaries may register them as "protected apiaries" and unfair encroachment thereon by migratory beekeepers will not be permitted. Without the Minister's consent, no person will be allowed to move bees on to any land within a prescribed distance, not exceeding two miles, of a protected apiary. A limit of three sites will be allowed for any one beekeeper, except in the case of a partnership or company, which may be granted up to six protected apiaries. The keeping of bees may also be restricted in specified areas where the processing of dried fruits would be harmed.

Auctioneers, Stock and Station and Real Estate Agents.—No. 25 gives statutory force to the order made by the Premier in May, 1942, pursuant to powers purporting to be vested in him by Regulation 60 of the National Security (Supplementary) Regulations, continuing in office until June 30, 1943, the provisional council set up under the Auctioneers, Stock and Station and Real Estate Agents Act of 1941, and postponing the date of the elections to the council which were to take place in 1942. As a result of certain decisions of the High Court in relation to the extent of the defence power, doubt was felt as to the validity of Regulation 60, and, consequently, of the Premier's Order.

Cereal Growers Drought Relief.—The States Grants (Drought Relief) Act, 1944, passed by the Commonwealth Parliament provides for the payment by the Commonwealth to New South Wales of certain moneys for the purpose of alleviating hardship suffered, in consequence of drought, by producers of cereal crops. These moneys are being paid to this State on condition that an equal amount will be made available by the State, and that such amount will be applied by the State for the same purpose and in the same manner as the amount granted by the Commonwealth. No. 33 sets up a special Treasury account into which will be paid the moneys contributed by the Commonwealth and the State, and provides for its distribution by the Rural Bank of New South Wales to cereal growers to enable them to continue operations. The advances are to be by way of gift.

Companies.—A defect in the drafting of the Stamp Duties Act, 1920, is removed by No. 24 directing that the rates as contained in the Third Schedule of the Stamp Duties Act, 1920, shall apply to companies' death duties assessments in respect of members who died after the passing of the Stamp Duties Act, 1920, and before the passing of the Stamp Duties (Amendment) Act, 1931. The latter Act corrected the position as from 1931. Provision is also made for the recovery of duty by either the Commissioner of Stamp Duties or the Attorney-General and such power of recovery is made retrospective. Certain sections of the Companies (Death Duties) Act, 1901, as subsequently amended, which make special provision for the registration of offices of companies coming within the Act and the service of process upon such companies, are repealed. The objects of these sections are now achieved by the Companies Act, 1936. It is made clear that it is not the intention of the statute to exceed constitutional authority.

Crown Employees Appeal Board.—No. 15 provides for the constitution of a Crown Employees Appeal Board and defines its powers, authorities, duties and functions. The right is conferred on certain employees of the Crown to submit to the board appeals against certain decisions or determinations by the employer or other person in whose service they are employed, and the board is empowered to deal with such appeals. The Police Regulation (Appeals) Act, 1923, is amended by the substitution of Crown Employees Appeal Board for the Police Appeals Board constituted under that Act.

Deficiency (Revenue).—No. 30 provides for the transfer to the Consolidated Revenue Fund of the proceeds of certain loans raised to meet revenue deficits of the State and which have been temporarily retained in an account at the Treasury called "The Commonwealth Treasury Bills (Sydney) Account."

Financial Agreement.—An amending financial agreement entered into between the Commonwealth and the States on November 15, 1944, is approved by No. 29. Provision is made for the payment of sinking fund contributions on moneys borrowed on Treasury Bills to finance State revenue deficits during the depression years from 1929–1930 onwards; to validate contributions already made up to June 30, 1944, at the rate of 10/– per centum per annum; to provide for contributions thereafter at the rate of one per centum per annum; and to approve the undertakings by the States to redeem £7,000,000 of the £53,000,000 Treasury Bills and of the National Debt Commission to apply £3,000,000 during 1944–45 to the redemption of Treasury Bills. The new sinking fund of one per centum is estimated to liquidate the remainder of the debt, viz., £43,000,000 in a period of thirty-nine years from July 1, 1944. The State is empowered to make voluntary contributions to the sinking fund, for the redemption of the State debt, in excess of the contributions prescribed by the Financial Agreement.

Fire Brigades.—As from the day next following the date of termination of the present war or such earlier date as may be notified by proclamation, under No. 12 the working hours of permanent firemen shall be reduced to fifty-six per week to be worked on a three-shift system, and that as from the same date officers up to and including the rank of Station Officer shall be required to be available for duty eighty-four hours per week. A progressive reduction of working hours is to be made as manpower requirements permit, and the Industrial Commission is directed that it shall, upon application made to it after the commencement of this Act, make such variations in any award affecting firemen as may be necessary to bring the provisions of the Act into effect. In this connection, the Commission may make awards to take effect at any time after the commencement of this measure, granting conditions not less advantageous than those prescribed therein.

Government Railways.—The object of No. 36 is to assist in the prevention of pillaging of goods in transit on the railways and to facilitate proceedings in the Courts when the culprits have been apprehended. It is provided that any person who, without lawful excuse, is found upon any carriage, truck or other vehicle on the railways which contains any goods, parcels or luggage, or in any railway yard or siding where there is any carriage, truck or other vehicle containing any goods, parcels or luggage, shall, upon summary conviction, be liable to a penalty not exceeding £50, or to imprisonment for a period not exceeding three months. Prior to this alteration any person found in a railway truck or a railway yard without lawful excuse could be charged only with trespass unless he was caught with goods in his possession. The railways are also given the same facilities in regard to the production in Court of documents as evidence of the ownership of goods stolen from the railways, as the shipping companies already have under s. 419A of the Crimes Act. Previously, it was frequently necessary to bring witnesses from other States to give evidence of ownership and identification of goods when prosecutions were launched in respect of goods pillaged from the railways.

The Commissioner for Railways is empowered by No. 13 to make by-laws

prescribing special scales of tolls and charges or special rebates of tolls or charges in respect of the conveyance of produce or merchandise such as the mill products of country flour millers. The rebates, as set out in by-law 935, as amended by by-law 961, under the Government Railways Act, 1912–1934, relating to wheat forwarded to flour mills to be milled, are authorized and confirmed. In addition, the provisions covering rebates in the Merchandise and Livestock Rates Book adopted and incorporated by reference by by-law 1002 are validated.

Irrigation and Water.—The Water Act, 1912–43, is amended by No. 26 to enable ratepayers who are absent from their holdings in water trust districts, to authorize some person to vote on trust matters and to be eligible for election as a trustee of the trust. Where land is liable for rates in respect of water supplied for irrigation, the trustees, in fixing the rate, may fix different amounts for different parts of the land having regard to the fact that any such part is or is not actually used for production under irrigation, or having regard to the type of production under irrigation, for which any such part is used. When a flood control district or a flood control and irrigation district is being finally constituted, the whole of a holding may be included in the final district, but only the parts benefited by the works will be liable to rates. In addition, subsoil drainage districts may be constituted for the purpose of draining the subsoil of lands within irrigation areas, irrigation trusts and irrigation districts, and surface drainage districts constituted for the purpose of draining the surface of any lands other than town lands. Where it is proposed to constitute a district, the Commission is obliged to publish a proposal specifying the purposes of the district, the nature of the work, the lands proposed to be included in the district, the maximum annual rate, if any, which owners of benefited lands are to be required to pay for the service in drainage, and the amount of the contribution, if any, which those owners are to be required to make towards the capital cost of the works. Landowners may object to the proposal, and where they do object, the proposal will be referred to a board for inquiry and report. Where a proposal has been so referred, a district may only be constituted if the board reports in favour of the proposal. On the constitution of a district the Commission may proceed with the construction of the drainage works. The rates and contributions are payable to the Rural Bank.

The Irrigation Act, 1912–1943, has been amended to authorize the Minister for the time being administering the Irrigation Act to act as chairman of the Water Conservation and Irrigation Commission in lieu of the Minister for Agriculture. The water rights attached to an irrigation farm held as a lease or in course of purchase may be re-determined when part of the farm had been surrendered or land had been added under the provisions of any Act, instead of under the Crown Lands Consolidation Act only, as formerly. This action may also be taken in respect of a farm, a grant in fee-simple for which has been issued. Pending survey and vesting in the Municipal Council of Wentworth, the roads within the Curlwaa and Coomealla Irrigation Areas shall be deemed to be public roads for the purposes of certain sections of the Local Government Act so that the Council will be able to carry out necessary work thereon. The rights and obligations of the Commission with regard to its works on the roads are also defined.

The Crown Lands Consolidation Act has been altered so that a reference in any provision to the " Minister " shall, in the application of that provision to or in respect of an irrigation area, be read as a reference to the Minister for the time being charged with the administration of the Irrigation Act. With the approval of the Water Conservation and Irrigation Commission, the holder of an irrigation farm lease and the holder of an irrigation farm purchase may now subdivide their holdings at any time. The relief available to holders of land in irrigation areas which suffer damage by flood, drought, etc., has been extended by an appropriate amendment of the Crown Lands (Amendment) Act, 1932, to the postponement

of instalments of purchase money and Crown improvements. Previously, relief could only be granted in respect of the payment of interest thereon.

A provision has been inserted in the Wentworth Irrigation Act to the effect that land within the irrigation area constituted under that Act shall not be transferred, leased, sub-leased or otherwise dealt with, mortgages excepted, without the consent of the Water Conservation and Irrigation Commission. It has also been provided that no person shall, except by way of mortgage, acquire any land within the irrigation area, which either by itself or together with such land already held by him would substantially exceed, in the opinion of the Commission, an area which, when used for any purpose for which it is reasonably fitted, would be sufficient for the maintenance in average seasons and in average circumstances of an average family. When the Commission refuses consent to any dealing with the land on the ground of home maintenance, either party to the dealing may have the matter referred to the Special Land Board for inquiry and report to the Minister, and the Minister's decision shall be final.

Kosciusko State Park.—Crown lands comprising the Snow Belt and adjacent lands are reserved permanently as a State Park by No. 14 to be known as Kosciusko State Park. Land within the park will be available to the public for the purpose of riding, hiking, camping, snow sports and similar forms of recreation. A Trust will be appointed which will have the care, control and management of the park—and authority to carry out any work in connection with the improvement, development and maintenance of the area for park purposes. Provision is also made for the constitution of a Kosciusko State Park Fund which will be under the control of the Trust.

Law Reform (Miscellaneous Provisions).—So much as remained of the rule of law that causes of action and actions abated on the death of the plaintiff—or defendant—is abolished by No. 28. All causes of action (except defamation, seduction, alienation of affections, and claims for damages against an adulterer) will now survive notwithstanding the death of the party wronged, or the wrongdoer, and may be brought or continued, by or, as the case may be, against, the deceased's estate. Where a person is wronged, his estate will be able to sue as and for the deceased. In this regard, exemplary damages are denied and damages in actions for breach of promise of marriage (where the lady is deceased) are limited to actual out-of-pocket expenses. In cases where an action might be brought under the Compensation to Relatives Act, no damages are recoverable for the deceased's pain or suffering or loss of expectation of life. Otherwise the damages are at large.

In addition, the law in relation to injury arising from nervous or mental shock is liberalized. If a person, by negligence, kills, injures or puts another in peril, and, as a consequence, a kinsman of the person last mentioned sustains shock resulting in injury, then the kinsman (as defined) now has a right to be compensated by the negligent person, whether or not the injury to the kinsman through shock was contemplated as a possibility by that person. The husband or wife of, or a person in the relationship of parent to, the party killed, injured or imperilled may recover damages although not a witness of the incident. Where the party claiming is in some other degree of relationship, recovery of compensation is permitted only if the claimant saw or heard the occurrence.

Local Government (Electoral Provisions).—The period during which municipal and shire councils may use the State electoral rolls in connection with their own rolls for elections is further extended until October 8, 1945, by No. 18 which provides that persons whose names appear on the State electoral roll as compiled on April 24, 1944, although not included in the local government roll, are to be deemed electors and permitted to vote in the manner originally provided by the principal Act. The local government franchise was extended by the principal Act to include (in addition to owners, ratepaying lessees and occupiers) all persons enrolled on the State electoral roll for any electoral district whose places of living

as stated in the electoral roll were within a ward or riding of a local government area, and who continued on the day of election to reside at the same place of living. Those councils which have prepared complete rolls by the inclusion of persons whose names appear on the State electoral roll will be able by this amendment to use those rolls at the 1944 triennial elections, and will be relieved of the obligation (placed on councils which have not completed original rolls in 1944) of preparing original rolls in 1945.

Lotteries and Art Unions.—Voluntary organizations may dispose of real property under No. 34 amending the principal Act, by means of art unions formed and conducted in accordance with the provisions of that Act.

Lunacy.—Any patient confined in a hospital for the criminal insane may be brought before a judge by No. 38 for examination in order that a judicial determination may be given as to his sanity. If any such patient is found by the judge to be of sound mind he may order the patient to be removed to the gaol or other place from whence he came, to be dealt with according to law. This enactment was rendered necessary to furnish criminal mental patients with the same opportunity of having their sanity determined by a judicial authority as already was available to ordinary mental patients.

Metropolitan Water, Sewerage and Drainage.—The Metropolitan Water, Sewerage and Drainage Board is authorized by No. 37 to extend its activities into parts of municipalities and shires not already within the sphere of the Board's operations, in the same manner as it already does in respect of the whole of a municipality or shire. Previously, the Board only had authority to extend its activities to the whole of a municipality or shire with the result that, although part of such a local government area might be in need of water supply, and although the Board might have been able and willing to give water supply to that area, it could not do so without taking over the supply to the whole of the municipality or shire.

Noxious Trades.—The Noxious Trades Act, 1902, is amended by No. 9 by empowering the Governor, on the recommendation of the Board of Health, to make regulations to control the slaughter of animals on licensed noxious trades premises ; prescribe slaughtering methods and prohibit slaughtering except in accordance with prescribed methods ; regulate the times at which and the conditions under which cattle may be slaughtered on licensed noxious trades premises ; require inspection of carcases of cattle on such premises and prescribe the manner of disposal of carcases of cattle found to be diseased ; and stipulate conditions under which carcases or portions thereof or any product therefrom may or may not be removed from noxious trades premises. A penalty not exceeding £100 or imprisonment for a period not exceeding six months or both may be imposed for a breach of the regulations. In addition, the Court is empowered to direct cancellation of registration or licence under the Noxious Trades Act. The regulations are also designed to ensure that the flesh of diseased animals and the flesh of horses slaughtered on certain licensed noxious trades premises known as knackeries are not sold for human consumption.

Parliamentary Elections.—Members of the Defence Forces and members of the Civil Constructional Corps serving outside Australia who are ordinarily resident in New South Wales are enabled by No. 10 to vote at the State elections in May, 1944. The following persons are entitled to vote:—

(1) A member of the Forces who is over the age of twenty-one years, and who is serving within Australia or outside Australia but in that portion of the South-western Pacific Zone as may be proclaimed from time to time under the provisions of the Commonwealth (Citizen Military Forces) Act, 1943.

(2) A member of the Forces who is under the age of twenty-one years and has served outside Australia and is serving within Australia or the area referred to in paragraph 1.

(3) A discharged member of the Forces who is within New South Wales and—

(i) who is not enrolled as an elector and is not under the age of twenty-one years ; or

(ii) who is under the age of twenty-one years and has served outside Australia.

(4) A person employed by the Allied Works Council on any project, undertaking or work outside Australia, who is over the age of twenty-one years.

A qualified person is required to vote in respect of the electoral district in which his place of living immediately prior to his enlistment, or employment, as the case may be, is situated. The term " member of the Forces " includes women. The Act is based largely upon the Commonwealth Electoral (Wartime) Act, and expires by effluxion of time on December 31, 1944.

The principal Parliamentary Elections Act is amended by No. 2 to enable a blind voter or a person suffering from a physical disability or an illiterate to take a friend into the polling booth to assist him in marking his ballot paper. There is like provision in the Commonwealth law. A further amendment authorizes an elector who on polling day is not within five miles of a polling booth to make application to vote by post. Hitherto the limit has been ten miles. A similar right with regard to voting by post has been given to electors outside the State on polling day.

By another amending Act, No. 23, the Electoral Commissioner is relieved retrospectively of his obligation under s. 120C of the Parliamentary Electorates and Elections Act, 1912–1944, to send notices to persons who appear to have failed to vote in relation to the following: (1) the election of a member of the Legislative Assembly for the Electoral District of Lachlan, held on September 25, 1943 ; (2) the election of a member of the Legislative Assembly for the Electoral District of Willoughby held on September 25, 1943 ; (3) the election of a member of the Legislative Assembly for the Electoral District of Auburn, held on October 2, 1943 ; and (4) the general election of members of the Legislative Assembly held on May 27, 1944.

Police.—Police are given by No. 20 a legal right to extended leave of absence and payment may be made on the basis of dependency of the monetary value of extended leave not taken before death. Previously the granting of extended leave was within the discretion of the Commissioner of Police and there was no legal sanction to the payment on the basis of dependency of the monetary value of extended leave not taken prior to death.

The payment of superannuation allowance or gratuity to a member of the police force who is disabled by injury received on the daily or other periodic journeys between his place of residence and the place at which he is to perform his duties is authorized by No. 1. Provision is also made for superannuation payments to be made to the dependants of any member of the police force who is killed or dies as a result of injury received on any of such periodic journeys and similarly to the dependants of a police pensioner who dies from injuries received whilst a member of the police force.

Prickly Pear.—No. 6 provides for the extension of the term of prickly-pear leases to leases in perpetuity ; the fixation of the rent of such leases at the rate of two and one-half per cent. of the capital value of the land comprised in the leases ; and for the redetermination of such capital value at intervals of ten years. Upon each reappraisement, the lessee will get the benefit of all pear-clearing work which he has carried out at his own expense by poisoning or other methods, but where the destruction has been done by cochineal or cactoblastis insects without cost to the lessee, the value of the work will go to the Crown which provides the insects free of charge. The reappraisement will be made by the local land board, and the lessees will have a right of appeal to the Land and Valuation Court as in the case of reappraisement under the Crown Lands Consolidation Act, 1913. The Minister will also have the right to contest an appraisement by reference to the court. Provision is made in addition for the subdivision of prickly-pear

leases, and for the reference of cases and matters under the Prickly-pear Acts to the local land board for report.

Public Health.—An amending Act, No. 16, gives additional powers to the Board of Health and local authorities ; consolidates the Public Health (Amendment) Act, 1915, and the Public Health (Amendment) Act, 1921, with the principal Act ; and amends the Local Government Act. It will come into force on a date to be proclaimed, except in the case of certain provisions indicated below which will operate from some other dates to be fixed. An entirely new set of definitions is inserted for the purpose of avoiding lengthy legal arguments such as have arisen from the absence of proper definitions. No person shall be employed as a Health Inspector unless he holds the prescribed qualifications. The Board of Health, however, will be empowered to exempt from this prohibition the employment of any specified person for a specified district. Health Inspectors must not only hold the necessary examination qualifications, but also a certificate granted by the Local Government Department under ordinance. Health Inspectors will thus be in the same position as other Local Government employees whose certificates may be suspended or cancelled by the Governor if sufficient reason be shown for such action. The Governor is empowered to require two or more councils to join together in appointing a Health Inspector to act for them jointly.

Medical practitioners, on becoming aware that any person is suffering from or has died from an infectious disease, are required to notify the Board of Health or the local authority, and except in the cases of tuberculosis and puerperal infection, to inform the head of the household of the nature of the disease and then the precautions to be taken to prevent the spread of infection. Power is given to a Medical Officer of Health, or a medical practitioner specially authorized by the President of the Board of Health, to direct that a person suffering from an infectious disease be removed to a hospital for treatment. A medical officer may also order any sufferer from leprosy, or a contact of any such sufferer, to submit to a medical examination. A local authority is empowered to authorize the disinfection or destruction compulsorily of articles found on premises and which are verminous or likely to endanger health or promote infectious disease. Reasonable compensation is payable in such cases except where the conditions are due to neglect by the person concerned. The Board of Health or a local authority may order any person in occupation of premises erected on unhealthy building land in contravention of a notice under s. 55 of the Public Health Act, 1902, to vacate such premises. This provision will commence upon a date to be proclaimed. Failure to comply with any such order renders the person concerned liable to a penalty of £2 per day.

Local authorities are empowered to issue closing orders in respect of any dwelling-house which is in a state so injurious to health as to be unfit for human habitation, this power being extended to houses or buildings which are unsafe for human habitation ; to prohibit the use of cellars, vaults or underground rooms for dwelling purposes ; and to provide for the licensing of undertakers and the registration of mortuaries. These provisions also will not commence until dates to be proclaimed. There is provision for the licensing of persons using hydrocyanic acid or other proclaimed dangerous substances for fumigation purposes. It is made clear that in any proceedings for the recovery of penalties under the Public Health Act or regulations, the information or complaint may (unless otherwise expressly provided) be laid by the Board of Health or the local authority or an officer specially authorized in that behalf by the Board or the local authority. The object of this is to preclude the possibility of private individuals taking action on their own initiative in respect of breaches of the Act. The measure incorporates in the principal Act sections of the amending Acts of 1915 and 1921 which were previously unincorporable, the effect being a consolidation of Health legislation.

Public Health.—A flaw in the existing Public Health (Amendment) Act, 1921, which was disclosed by a decision of the Full Court in relation to the storage of flock, rags or other filling materials upon the premises of bedding and upholstery manufacturers is corrected by No. 35. A certain regulation made under the 1921 Act purported to regulate the trade in flock, rags, etc., and to require the cleansing and disinfection of such articles before their use in any manufacturing process. The Court decided that this regulation was *ultra vires* regulation-making powers contained in the 1921 Act, and the effect of the decision was to leave the way open for a manufacturer of bedding or upholstery to store on his premises unclean filling materials, and use such materials in the process of manufacture. It has been made quite clear that the term " bedding " used in the principal Act means both new and second-hand bedding.

Public Instruction (Blind and Infirm Children).—The State is empowered by No. 7 to establish special schools, or to certify schools already in existence or to be established by other authorities, for the education of children who are not capable of being educated in ordinary schools because of an infirmity, particularly blindness and deafness. Authority is given for the proclamation of districts in respect of special schools, and provision is made that, within those districts, attendance by children capable of benefiting by the special instruction is to be compulsory.

Public Service.—Employees of the Departments of Prisons and Mental Hospitals who are at present appointed by the Comptroller-General of Prisons and the Inspector-General of Mental Hospitals respectively are transferred to the jurisdiction of the Public Service Board by No. 19.

Public Trusts.—No. 8 authorizes the appointment, as trustee of land set apart for the purposes of a cemetery, of a corporate body constituted under any Act providing for the holding or managing of or dealing with church property. Past appointments of this nature are validated and any such corporate body is empowered to accept appointment and to exercise and discharge all the powers and duties necessary for the carrying of its trusteeship into full effect. Provision is also made for the substitution of the several bodies corporate created by the Roman Catholic Church Trust Property Act, 1936, for private trustees of lands set apart as Roman Catholic burial grounds.

Pure Food.—No. 5 is designed to enable the Board of Health to prevent possible exploitation of the public in connection with the sale of food for human consumption. Some definitions are extended, such as that relating to " appliance," to include instruments or contrivances sold for curative purposes, and all appliances used in connection with food or drugs for sale. The law relating to adulteration is altered to cover food treated to conceal adulteration ; and foods which are mixtures must comply with prescribed standards. Provision is made to ensure that the obligation to attach correct descriptions to foods for sale is not avoided. Packages of drugs, as in the case of packages of food, are required to be labelled. A period of six months will be allowed in order to enable previously existing labels to be adjusted. The packing for sale is prohibited of any disinfectant or poisonous substance in containers which are likely to mislead the purchaser into believing that the contents are for human consumption. It is made an offence to sell not only the milk of a diseased cow, but also the product of such milk. The Court is empowered to prohibit by order any person convicted of an offence against the Pure Food Act from engaging in the sale of food for such period as the Court may determine. A person contravening any such order is liable to a penalty not exceeding £100. The responsibility for approaching the Court for a Prohibition Order will devolve upon the Minister for Health, whose authority must first be obtained to approach the Court.

S. 47 of the Pure Food Act, 1908, relating to guarantees, is repealed. It is replaced with a new section which provides that any manufacturer may give a general or specific guarantee to his retailers in connection with any products, but

such guarantees will be on an ordinary legal and business basis, and will not be permitted to be stated on the labels. On and after a date to be proclaimed, it will be an offence to use on labels the words "Guaranteed under the Pure Food Act, 1908," or any serial number registered at the Treasury under repealed s. 47. In fixing such date, due regard will be paid to the matter of allowing all concerned sufficient time to dispose of stocks on hand which are labelled under the old conditions. Authority is given for the exercise of control in connection with the sale of drugs of inferior grades under fancy names on the same basis as applied to food of inferior grade sold under fancy names. The regulation-making powers of the Board of Health are extended to cover statements which may be written on or attached to packages of drugs ; the publication, use or exhibition of printed or pictorial matter, in respect of any food or drug, which is misleading or likely to mislead ; and requirements to be observed in the situation and construction of premises used for the manufacture, storage or packing of any food, drug or article.

Registration of Births, Deaths and Marriages.—The Registrar-General is authorized by No. 21 to issue extracts of birth registration entries in lieu of full copies, except in cases where the complete document is required. The extract will state only the present name of the child, and the date and place of the birth. This is designed to avoid causing distress and embarrassment to a person who may ascertain for the first time on receiving a copy of his or her birth certificate that he or she is illegitimate, or an adopted or foster child, or who may be required to produce a certificate to an employing or other authority as proof of age. Provision is also made, for similar reasons, that where a person has changed his or her name legally, any extract issued is to refer to him or her by the new name.

Rural Bank (Personal Loans Department).—The Rural Bank is empowered by No. 3 to establish a Personal Loans Department for the purpose of making loans to persons who have no real estate or other security to offer which would enable them to secure accommodation from financial institutions in the usual way by mortgage or advances on their property. The funds are provided by the bank and loans are made on such terms and conditions as the bank may determine. Authority is given to the bank to insure against the death of any borrower. A similar provision is made in the case of this department of the bank as in respect of other departments, namely, there is created a reserve fund out of net earnings of the department to meet any loss, and it is further provided that any deficiency in the reserve fund will be made good out of moneys provided by Parliament.

Superannuation.—Provision is made by No. 11 for the resumption of pound for pound contributions to the State Superannuation Fund by the Crown and certain other employers in respect of new and additional units of pension taken up on or after July 1, 1944. Out of moneys appropriated by Parliament for the purpose, an amount of £3,832,000 shall be paid to the fund by instalments at such times and in such amounts as Parliament may direct, but so that no less than £80,000 will be paid each financial year. There is also provision that the payment of the balance due as at July 1, 1943, from the Superannuation Fund to the Consolidated Revenue Fund as required by s. 9 of the Finances Adjustment (Further Provisions) Act, 1933, shall be made by monthly instalments over a period of ten years from that date, a progressive reduction in the amount of the instalments being made each year. The pension payable in respect of all children and orphans is increased from £13 to £26 per annum ; the cost of the increase being borne entirely by the employers.

A number of amendments of an administrative nature have also been made to the principal Act. New employees will now be required to undergo a medical examination by the Chief Medical Officer of the Government and power is given of refusing to accept as a contributor any employee in respect of whom there is an adverse medical report. To an employee aged forty years or more, there will be

automatically allotted additional units of pension appropriate to any increase in salary, subject to the employee electing not to accept any such additional units. A new schedule has been inserted in the principal Act prescribing the rates of contributions for new and additional units of pension taken up on or after July 1, 1944. The condition under which no employee with less than five years' service is eligible for a breakdown pension is repealed. Authority is given for the deduction from the amount payable by way of refund of contributions to any employee upon resignation, dismissal or discharge of any amount previously paid to him as pension. The Superannuation Board is enabled, out of any lump sum refund of contributions available for payment to an employee who has resigned or has been dismissed or discharged, to deduct the amount specified in a certificate granted under s. 13A of the Deserted Wives and Children Act and in which such employee is named as defendant. It is also provided that the attainment of age sixty-five will be a bar to appointment and continued tenure of office as president or member of the Board ; that a time limit of six months shall operate in respect of the making of appeals against decisions of the Board ; and that, in certain circumstances, pensioners under the Superannuation Act may be re-employed without abatement of pension.

Workers' Compensation (Bush Fire Fighters).—A new part is inserted in the Workers' Compensation Act, 1926–1942, by No. 32 to provide that a fire fighter who has received an injury and, in the case of the death of the fire fighter, his dependants shall be entitled to an award by the Commission from the Bush Fire Fighters' Compensation Fund. Where an award is made by the Commission the compensation payable shall be at the rates prescribed by the Workers' Compensation Act. In addition to the compensation for death or injury, there shall be payable from the Fund, in respect of the destruction of or damage to (*a*) wearing apparel or personal effects upon a fire fighter whilst fighting a bush fire ; or (*b*) any vehicle, equipment or thing used in connection with fire fighting at or near the scene of the bush fire and owned by, or in the possession or custody of, a fire fighter, such amount as the Commission may, having regard to all the circumstances of the case, consider reasonable to indemnify the owner. It is provided, however, that the amount payable in respect of wearing apparel or personal effects shall not exceed £10. No indemnity shall be payable with regard to any loss occasioned by theft or resulting from reasonable wear and tear or where the owner is entitled to adequate reimbursement under any policy of insurance or from any other source whatsoever. " Bush fire " is defined so as to enable a fire fighter, injured fighting fires in dwellings in country villages and other built in areas, which are not serviced by the Board of Fire Commissioners of New South Wales, to receive an award from the Fund in the event of his suffering injury or loss. The term " fire fighter " includes the captain, group captain, or deputy captain, or any member of a bush fire brigade ; any person who, without remuneration or reward, voluntarily and without obligation, engages in fighting a bush fire either with the consent of or under the authority and supervision of the captain, group captain or deputy captain of a bush fire brigade, or in conjunction with any civil authority ; and any person who, without remuneration or reward, voluntarily and without obligation, engages in fighting a bush fire and who, in the opinion of the Commission, having regard to all the circumstances, should be deemed to be a fire fighter. The Bush Fire Fighters' Compensation Fund will be contributed to by the Government, shire and municipal councils and fire insurers in such amounts as may be assessed by the Commission under the provisions of the Act. Provision is also made for compensation to be payable where medical or hospital treatment or ambulance service becomes necessary as a result of injuries, and the benefits prescribed are those contained in s. 10 of the principal Act. Where a fire fighter was not working under a contract of service immediately prior to fighting the bush fire at which he received the injury, his " earnings " and " average weekly earnings " shall be such

amounts as the Workers' Compensation Commission considers to be reasonable in the circumstances. The definition of "injury" includes personal injury resulting in incapacity or death received by a fire fighter not only in the course of fighting a fire but arising out of or in the course of journeying between his place of residence or employment or the place from which he was called and the bush fire when such journeying was made exclusively and bona fide for the purpose of engaging in fighting a bush fire. It also includes a disease which the Workers' Compensation Commission is satisfied arose out of or in the course of fighting a bush fire or such journeying.

The new Part does not apply to fire districts constituted under the Fire Brigades Act, and consequently the definition of "worker" in the principal Act is amended so that a person fighting bush fires within a fire district, who would not ordinarily be deemed to be a worker, is, in certain cases, deemed to be a person employed by the Board of Fire Commissioners of New South Wales and as such will be entitled to workers' compensation.

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Audit.—No. 1 provides for the inclusion each year in the public accounts of the income and expenditure accounts in respect of (i) the Government Railways and any other service carried out by the Commissioner for Railways; (ii) the Metropolitan Transport Services and the Newcastle and District Transport Services; (iii) the Maritime Services Board—Sydney Harbour Trust; (iv) such other undertakings or activities as the Governor may from time to time direct. Provision is also made for the preparation each year of a statement showing the net results of the combined operations of the Consolidated Revenue Fund and of the undertakings and activities referred to above. The Colonial Treasurer, upon the recommendation of the Auditor General, may dispense with obtaining the individual receipt of payees in certain cases and may substitute a certificate of the paying authority. In future, it will not be necessary to obtain a receipt at the time of payment or to write out in words or full length the amount of the receipt. The certificate of the paying officer authorized to give such a certificate will be accepted as a receipt. It will also be unnecessary for accounting officers to furnish attested accounts to the Auditor General as at the present time, as the purpose which was served by those accounts can now be achieved by other means.

Broken Hill Water and Sewerage.—An obligation is placed by No. 29 on the Broken Hill Water Board to instal and maintain the water pipes and necessary fittings between any water main and the meter upon a consumer's premises. The board may borrow money for the purpose of financing deferred payment sewer connections and charge interest upon moneys owing as deferred payments in respect of such connections. Authority is also given to the board to write off irrecoverable rates and charges, and with the approval of the Colonial Treasurer, sewerage rates which have accrued due while the owner has been unable, for reasons attributable to the war, to connect his premises to a sewer main.

Building Operations and Building Materials Control.—The Minister's consent is necessary by No. 12 to the erection in certain specified areas of dwelling-houses as permanent residences where such dwelling-houses do not exceed 1,200 square feet in area for timber-framed structures or 1,250 square feet for brick or concrete buildings. Outside the specified areas a permanent residence of any description or size may be constructed without the Minister's prior approval. No such consent is required in respect of the erection of a dwelling-house for a primary producer or any structure, the cost of which does not exceed £500, used or intended for use in connection with primary production. Provision is also made for the control of the supply and distribution of timber, bricks and other building materials in short supply. The Act will cease to operate on June 30, 1946, but it may be extended from time to time by regulation for periods not exceeding three months.

Co-operative.—Co-operative societies and co-operative associations are enabled by No. 5 to carry on the business of insurance. Co-operative Building Societies, subject to a limit of £1,250, may make loans up to 100 per cent. of the value of the security and obtain a Government indemnity in respect thereof. The control of the Registrar and the Advisory Council in relation to the registration of societies and their rules, is enlarged and the winding-up provisions of the principal Act, about which legal difficulties had arisen by reason of the repeal in 1936 of the Companies Act, 1899, are clarified. There are several other provisions the more important of which confer wider powers of trading on Rural Societies ; enlarge the powers of a Trading and a Building Society to acquire shares in other societies ; clarify the powers of a Community Advancement Society in connection with the acquisition of houses and land ; enable a Community Advancement Society to operate as a Small Loans Society ; make clear the powers of a Building Society in regard to taking second mortgages ; authorize a Community Advancement Society whose principal object is the provision of homes, to join an Association of Building Societies ; make more flexible the provisions of the Act in regard to Associations of Societies ; reduce from 8 per cent. to 6 per cent. per annum the maximum dividend which a Co-operative Society may pay ; and give a permanent Building Society wider powers to invest in Government Loans.

Crown Lands, Returned Soldiers' Settlement and Closer Settlement.—The operation of s. 3 of the Crown Lands (Amendment) Act, 1932, is extended for a further period of three years by No. 14. It provides for a reduction of 22½ per cent. in the rate of interest on certain debts to the Crown or to the Water Conservation and Irrigation Commission for the purchase of land and improvements, and in the annual rental or fee under certain leases, permits and licences. Authority is given for the inclusion in the amount which forms the basis of rental of a settlement purchase lease or group purchase lease of certain other debts owing to the Crown. These debts comprise principal and interest in respect of advances made in pursuance of the Returned Soldiers Settlement Act, 1916, or for sustenance or other allowances, or in respect of premiums paid by the Crown for insurance against loss by fire. Insurance debts owing to the Crown by discharged soldiers who themselves failed to make payment for the insurance of buildings, etc., on their holdings are cancelled. The constitution of Closer Settlement Advisory Boards is altered. The Governor shall appoint one person to be chairman of all such boards, and two other members to each board, so that each board shall comprise three members.

Dentists.—A dentist under No. 2 may be employed by a friendly society or any body or corporation approved by the Dental Board. The principal Act of 1934 prohibited a dentist from being employed by or associating himself with a person who was not a registered dentist in carrying on the practice of dentistry. The expression " person " includes a body or corporation (other than the Crown, public hospital, or charitable or philanthropic institution). Legal opinion obtained was to the effect that the Act as it stood prohibited a dentist from being employed by a dental clinic proposed to be established by the Broken Hill mining companies in association with their employees for the benefit of the latter and their families. This ruling also raised the doubt as to whether a dentist could be associated with a friendly society. These doubts have now been removed.

Electricity Development.—The Electricity Authority of New South Wales established by No. 13, which will consist of seven members, will replace the Electricity Advisory Committee constituted under the Local Government Act, 1919. The function of the Authority will be to promote and regulate the co-ordination, development and improvement of electricity generation and distribution throughout the State. With this end in view, the Authority has been empowered to promote and regulate the interconnection of power stations, the interchange of electricity between supply systems, the erection and augmentation of power stations, generating plant and transmission lines, and the adoption of

standards relating to electricity generation and supply ; to promote and encourage the development and use of natural resources for the generation of electricity and the use of electricity for industrial and manufacturing purposes and for primary production ; and to advise supply authorities on any question concerning the generation and distribution of electricity and report to the Minister on the advisability of amending the law relating thereto. The Authority has been further empowered, with the approval of the Minister, to grant subsidies to councils and other electricity supply authorities and to fix prices for the supply of electricity. County Councils may also be constituted. Except with the approval of the Authority, the establishment or extension of any power station or main transmission line, the supply of electricity by any council in another area, the taking or making of a bulk supply by any council and the issue of electricity trading franchises are forbidden. Provision is made, in addition, for control of the sale of electrical apparatus and appliances, the licensing of electrical contractors and electricians and the restricting of work by unlicensed persons. Investigation and testing from a safety point of view of plant and apparatus for the generation and distribution of electricity shall be carried out with a view to requiring necessary repairs or prohibiting the use of unsafe plant or apparatus. Contributions are to be made by the major electricity supply authorities in the State towards the expenses of the Authority.

Friendly Societies Dispensaries.—No. 11 will come into force upon a date to be proclaimed, but not earlier than the date of the commencement of the Pharmaceutical Benefits Act of the Commonwealth. The object of this measure is to empower a friendly society, which conducted a dispensary for the dispensing of medicines and the supply of surgical and medical requisites to its members and permitted dependants immediately before March 1, 1945, to conduct the business of a pharmacist in open shop, i.e., to trade as a pharmacist with the general public, in the premises of such dispensary or in other premises situate within one mile of the original location. It shall not be lawful for any department of the Government to make available to any such friendly society any concession or privilege which is not made available equally to persons carrying on the business of a pharmacist in open shop. A friendly society shall not be exempted from payment of stamp duty in respect of any such pharmacy business.

Government Railways.—The superannuation allowance of an officer with over forty years' service by No. 12 may be calculated on the basis of the average salary received during the last forty years of his service. The Superannuation allowance payable fortnightly is fixed at the rate of fourteen three-hundred-and-sixty-fifths of the annual superannuation allowance. S. 115 of the principal Act is revised so as to set out the manner in which outstanding contributions to the Superannuation Account are to be paid by an officer upon retirement ; to reduce to a period of 10 years the period of abatement of the superannuation allowance to meet outstanding contributions ; to provide for refunds of any excess deductions made from an officer's salary and emoluments ; and to stipulate that an officer, who has been re-employed and has received a refund of his contributions to the Fund, shall repay the amount of the refund to the Superannuation Account. Provision is also made in regard to the re-employment of and the salary to be paid to, an officer who has been retired owing to ill-health and who has been required to resume duties, or who resumes other duties after his health has become restored.

Government Railways and Sydney Harbour Trust.—Within the Railways Fund is created by No. 8 a Special Reserve and Fire and Accident Reserve Account. The action of the Commissioner for Railways in setting aside reserves prior to June 30, 1945, is validated and expenditure therefrom prior to the same date authorized. Authority has also been given for the use of the Sydney Harbour Trust Reserve Account to meet an appropriation made by Parliament, and the transfer of £750,000 from the Sydney Harbour Trust Fund to the Consolidated

Revenue Fund during the year 1944/45 is validated. The Commissioner for Railways and the Maritime Services Board are required to furnish income and expenditure accounts and balance sheets to the Colonial Treasurer within eight weeks of the close of each financial year.

Governor-General's Residence.—By No. 32 the State grants to the Commonwealth Admiralty House, Kirribilli Point, North Sydney, subject to its continued use as the official Sydney residence of the Governor-General.

Local Government.—Authority is given by No. 19 for the addition of unincorporated Western Division lands to shires as well as to municipalities, as at present ; the union of sub-economic areas is facilitated ; and a code for the protection of the interests of servants of councils affected by constitutional changes of their areas is provided. All permanent servants of a council are given the right to compensation if their employment is terminated after a favourable report following inquiry into their suspension or proposed dismissal. Courts are given a discretion to dismiss proceedings in disqualification cases of a trivial nature, and rate notices may be served out of time when it is not possible to serve them in the ordinary way.

Purchasers of land shall be entitled to a certificate showing all amounts due to councils in respect of the land ; unencumbered land may be accepted by councils in payment of rates owing ; councils may write off or reduce rates owing by old age and invalid pensioners ; and notices of transfer of land must now be given not only by the vendor and purchaser, but also by a mortgagee taking possession and trustees of deceased estates.

Councils are enabled to raise ordinary loans for certain essential purposes such as water, sewerage, drainage, electricity, gas, housing, and health and national fitness ; and the machinery is improved for raising loans in certain cases so as to eliminate unnecessary procedure. The borrowing powers of large councils are extended and councils may invest their loan reserves in the purchase of their own debentures at market value. Councils may also repair, drain or otherwise improve land used as a private thoroughfare at the expense of the owners of land adjoining such thoroughfare. Authority is given for the licensing of street photographers ; better control is provided over excavations near roads, dogs on roads and the menace of broken bottles on roads ; and councils are empowered to provide parking areas as well as bicycle racks in roads. Councils may subsidise baby health centres, kindergartens, nurseries and organizations in respect of the transport of children to and from school. Appeals against councils' decisions on roads, buildings, and subdivisions shall be dealt with by the Land and Valuation Court instead of by the District Court. Power is also given to enable any such appeal to be remitted by the Land and Valuation Court to the Court of Petty Sessions nearest to the building, road or land in respect of which the appeal is made. Where the liability to the Treasurer in respect of any work of water supply, sewerage, drainage or electricity has been extinguished, all land acquired for the purpose of such work shall be vested in the council.

The responsibility for water supply and sewerage connections from the mains to boundaries of premises, is shifted from individual ratepayers to councils, and councils may exempt from sewerage rates land which is not liable to water rates. Also, councils may levy differential excess water charges instead of flat charges as at present. The council which lawfully establishes abattoirs in the area of another council shall be deemed to be the local authority in respect of such abattoirs under the Cattle Slaughtering and Diseased Animals and Meat Act, 1902, as amended. Councils' housing powers are extended and they are empowered to finance home builders and to raise ordinary loans for the purpose. Councils are enabled to accept appointment as agents of the Government Insurance Office ; as agents of the Crown and other councils for collection of moneys ; and as agents of the Crown generally for any matter in respect of which the

Crown may appoint agents. There are also numerous minor machinery amendments of the principal Act.

Local Government (Town and Country Planning).—New provisions are inserted in the principal Act in No. 21 for the preparation of town and country planning schemes by councils, either separately or by two or more acting together, and by county councils constituted for the purpose. Special provision is made for the constitution of the Cumberland County Council to prepare, within three years or such longer period as the Minister may approve, an " outline " scheme for the Municipal Council of Sydney and the sixty-seven municipalities and shires wholly or partly included in the County of Cumberland. Ordinances may be made prescribing schemes and, when approved by Parliament, they will have force of law, enabling them to be carried into effect and enforced by the responsible councils. Compensation may be paid to persons whose interests in land are injuriously affected by such schemes, and in certain other circumstances. Provision is made for the recovery by the councils concerned of 80 per cent. of the " betterment " of any parcel of land embraced in a scheme, that is, the enhanced value of the land directly attributable to the scheme, as assessed by the Valuer General. The development, termed " interim development," of the land affected during the period when schemes are being prepared, is subject to control. Certificated town and country planners must be appointed by councils to assist them in the preparation of schemes. A Town and Country Planning Advisory Committee is set up to consider and furnish reports to and advise the Minister on any matter or proposal relating to town or country planning referred to it by the Minister or as may be prescribed. The committee may also submit to the Minister a proposal in connection with any matter connected with town or country planning. It may also advise the councils in connection with such schemes and may make investigations and inquiries for any town or country planning purposes. Agreements may be made with councils under which Government grants or repayable advances may be made to them for town and country planning purposes.

Lunacy.—By No. 33 if any medical practitioner grants a certificate in the form of Schedule 2A of the principal Act without having seen and personally examined the person to whom it relates, for the purpose of ascertaining the condition of such person to the best of his knowledge and power, he shall be liable for every such offence to a penalty not exceeding £50. It is also made clear that the term " certificate " as used in ss. 6, 10 and 13 of the principal Act is one in the form of Schedule 2 to the Act.

Main Roads.—No. 17 provides for the recovery of the cost incurred in making good damage caused by any person to roads maintained, managed and administered by the Commissioner for Main Roads ; extends protection to occupiers of land in the Western Division in connection with the erection of motor by-passes, similar to that provided by the Local Government Act in respect of Local Government areas ; and requires proposals for new road junctions and intersections with main roads to be submitted to the Commissioner for approval. Provision is also made for the establishment of motorways designed to facilitate the movement of motor traffic by restricting access from adjoining roads and land ; the widening of main roads by the realignment method ; the removal of signs or hoardings prejudicial to safety ; the co-ordination of road work undertaken by public authorities ; and the proclamation of main road reserves through vacant lands within shires. An arrangement is validated whereby councils, who make contributions to the County of Cumberland Main Roads Fund under s. 11 of the principal Act, may reduce the contributions by such amounts as are written off the councils' books as irrecoverable. Authority is also given for the payment to their widows or other dependent relatives of the money value of extended leave not taken or completed by deceased officers of the Main Roads Department.

Medical Practitioners.—The proviso contained in s. 17 (1) (c) of the principal Act is removed by No. 11, whereby a person who had obtained a medical degree

in some foreign country was required, after completing the fourth, fifth and final degree examinations in the faculty of medicine at the University of Sydney, to prove that a graduate in medicine of the University of Sydney could obtain registration and the right to practise in such foreign country under conditions not more onerous than those applying in New South Wales, before registration could be granted in this State. Provision is also made for the registration of persons who were the holders of licences granted under Regulation 10 of the National Security (Alien Doctors) Regulations, and were practising medicine in New South Wales in pursuance of such licences immediately before such regulations ceased to have effect. The new provision affording such right of registration will commence upon the date the National Security (Alien Doctors) Regulations made under the National Security Act, 1939–1943, cease to have effect.

Mines Inspection.—No. 4 applies to dredges and sluicing plants those provisions of the Mines Inspection Act, 1901–1945, relating to the employment of certificated winding engine drivers ; the powers and duties of inspectors of mines ; the reporting of fatal and non-fatal accidents ; and the safe installation and operation of electrical apparatus and other machinery. Quarries and brick pits are brought definitely within the provisions of the Act. The requirements for certification of persons in charge of machinery at mines are widened, and provision is made for the furnishing of additional mine plans and the supply of boring records to the Department of Mines as well as annual returns of output. Check inspectors representative of employees are empowered to examine places where accidents or explosions have occurred. There are also several minor amendments of a machinery nature.

Museum of Technology and Applied Science.—The constitution of a body corporate to be known as the Trustees of the Museum of Technology and Applied Science is authorized by No. 31. Subject to the control of the Minister, the trustees will direct and manage the institution now known as the Sydney Technological Museum and its branches. An annual endowment of not less than £1,000 will be made to the trustees by the State for the furtherance of the work of the museum, such as the acquisition of specimens and the undertaking of research activities. The trustees may establish and control branch museums and recommend to the Governor the appointment of advisory committees to assist in their management. The trustees are also empowered to acquire by gift, bequest or devise, any property for the purposes of the Act.

Opticians.—No. 36 clarifies the definition of " optometry " or the " practice of optometry " and provides for the issue to optometrists of original certificates of registration and thereafter payment of an annual roll fee instead of issuing annual certificates of registration as at present. The regulation making power in regard to the employment of pupils of optometry is extended and firms or companies are placed on the same basis as individual optometrists with regard to advertising. Except with the consent of the Minister, the extension of the practice of optometry by firms or companies after September 1, 1945, is prohibited. Also, the use of mobile refracting units is forbidden except with the consent of the Minister.

Pest Destroyers.—No. 10. Primary producers and the general public are safeguarded by No. 10 against the sale of ineffective pest destroyers. Wholesale dealers in fungicides, insecticides and weed killers are required to register such pest destroyers annually. Registration will not be granted unless the article conforms with prescribed standards and the Department of Agriculture approves. An appeal against refusal of registration will lie to a District Court judge assisted by two assessors. No person is to sell a pest destroyer unless the packages are labelled and certain particulars, such as the name of the manufacturer, the name of the pest destroyer, the volume or weight of the contents, and directions for use are printed thereon.

Physiotherapists' Registration.—The constitution of the Physiotherapists

Registration Board is contained in No. 9. The board first constituted will consist of seven members appointed by the Governor as follows: (*a*) two medical practitioners, one to be nominated by the University of Sydney ; (*b*) four physiotherapists (not being medical practitioners), two of whom shall be nominated by the Australian Physiotherapy Association ; and (*c*) one other person nominated by the Minister for Health. The first board will hold office until June 30, 1947. The second and subsequent boards will hold office for three years and will be partly appointed by the Governor and partly elected by the Physiotherapists. The board is empowered to determine the character, conduct and subjects of the examinations, and to appoint examiners ; to issue and cancel certificates of registration ; to suspend the registration of any person, and to annul such suspension ; to cancel the registration of any person, and to annul such cancellation.

Provision is made for the establishment of a Register of Physiotherapists for New South Wales, in which will be entered the names, addresses and qualifications of persons registered under the Act. The qualifications entitling persons to registration under the Act are defined. Registered physiotherapists will be required to pay an annual roll fee. The board is authorized to remove from the Register the name of any person who has been convicted of a felony or misdemeanour (other than trivial offences), who has been guilty of habitual drunkenness or drug addiction or has been found by the board guilty of misconduct in a professional respect. An appeal against the decision of the board in such cases may be made to the District Court. The use of the title " Physiotherapist " by any person who is not registered under the Act is prohibited and will incur liability to a penalty not exceeding £50. The Governor is empowered, on the recommendation of the Board, to make regulations prescribing all matters necessary for giving effect to this legislation.

Police Offences.—Unauthorized persons are prohibited by No. 3 from using, carrying or having possession of any machine gun or sub-machine gun. The provisions of the Act shall not apply to (1) Any person in the performance of his duty as (*a*) a member of the defence forces of the Commonwealth or of the armed forces of any Government which is allied or associated with His Majesty in any war in which His Majesty is engaged ; (*b*) a Police Officer of the Commonwealth or of this State or any other State or Territory of the Commonwealth ; (*c*) a Peace Officer under the Peace Officers Act, 1925 ; (2) Any person whilst engaged in the manufacture, assembly or handling of any machine gun or sub-machine gun for and on behalf of the Commonwealth and (3) Any person engaged in scientific or experimental work with any machine gun or sub-machine gun in pursuance of an authority in that behalf granted by the Minister and in compliance with the terms and conditions imposed by any such authority. A penalty not exceeding £50 is prescribed for unlawful possession of a machine gun or sub-machine gun.

Public Accountants Registration.—Audits, required by the following Acts to be carried out by No. 18 may after 1945 be effected only by persons who are registered public accountants: Companies Act, 1936, as amended ; Co-operation Act, 1923–41, as amended ; Legal Practitioners Act, 1898–1936 ; Pastures Protection Act, 1934–43 ; Lay-by Sales Act, 1943 ; Trade Union Act, 1881–1936, as amended ; and the Public Hospitals Act, 1929–43 (*qua* both incorporated hospitals and " separate institutions "). To qualify for registration, the applicant will need to establish that he is aged 21 or more ; is of good fame and character ; has passed the examinations set by the Accountants Registration Board, or examinations of the University or Technical College accepted by the board as equivalent ; and is engaged, or about to engage, in public practice of accountancy (not necessarily full-time) on his own behalf, or in partnership, or is an employee of a practising registered public accountant. In order not to deprive persons now in public practice of their livelihood, either in whole or part, the Act provides for the registration of persons aged 21 or more ; of good fame and character ; and who have been in public practice from July 1, 1943, to the Act's commence-

ment. In the case of Service personnel, one year's public practice prior to enlistment is sufficient. Application for registration under this provision can be made only within two years of the Act's commencement, or within two years of the Serviceman's discharge, as the case may be.

Another provision deals with persons having recognized institute qualifications. This concession recognizes that these persons have a qualification recognized now as adequate for accountancy practice, and conserves their present rights to them. It also covers the case of persons who are now taking institute examinations by extending the concession to those who become members of an approved institute, or pass its final examinations within three years of the Act's commencement ; or in the case of Servicemen, within three years of their discharge.

Certain over-riding concessions are granted to, and the board is empowered to relax requirements in any way it thinks fit, in favour of, ex-Servicemen and wartime merchant seamen. The board is empowered to admit to registration persons who have practised, or qualified to practise, outside New South Wales, subject to its being satisfied their qualifications are adequate. An appeal lies to a district court from any refusal of registration by the board, or from any order of the board suspending an accountant or striking him off the roll.

The permanent board set up under the Act will take office on January 1, 1946, and will comprise the Auditor General or some officer of his Department deputed by him, as chairman ; the Under Secretary of the Treasury (or a deputy) ; the Public Trustee and two registered public accountants elected by the registered public accountants. The persons so elected are to hold office for three years. The board has Royal Commission powers to enquire into charges of infamous conduct ; may reprimand, suspend for not more than one year, or de-register ; and in all cases an appeal lies to a district court. The register is to be open to public inspection on payment of a nominal fee. An annual roll fee is to be payable by registered public accountants. From the fees collected, the board is to pay administrative expenses, including any fees or allowances payable to board members, and an amount to consolidated revenue in recoupment of the salaries paid to the secretary and for any other clerical assistance. The board may carry any surplus to its Education Account. These moneys, and any other moneys coming in to the Education Account by donation or otherwise, may be applied towards the promotion of education in accountancy ; accountancy scholarships ; and any other public purpose in connection with the profession.

Sir Joseph Banks Memorial.—The Sir Joseph Banks Memorial Fund is transferred by No. 30 to the trustees of the Public Library of New South Wales and directs that such fund be applied towards the cost of publishing and distributing the Banks Papers in a form suitable and fitting to the memory of Sir Joseph Banks. Any residue from the fund, together with the proceeds from the sale of the publication of the Banks Papers, will be utilized in publishing works in the natural sciences with special reference to Australia.

Statutory Duties (Contributory Negligence).—No. 1 restores the principle—reversed by the High Court in 1943 following a decision of the House of Lords in England—that contributory negligence is not a defence in certain actions for damages founded on a breach of a statutory duty.

Textile Products Labelling.—It is an offence by No. 13 to sell or offer for sale any textile product unless a label is applied by appropriate means setting out particulars of the proportions by weight of the respective fibres contained in the product. In such description, separate particulars are to be given of the proportions of virgin wool ; re-processed or re-used wool ; each fibre other than wool if the percentage by weight of such fibre is five per centum or more ; all other fibres ; and any non-fibrous loading, filling or adulterating material. No trade description shall contain the words " artificial wool," " imitation wool," " synthetic wool," " substitute wool " or any other expression which includes the word " wool " in relation to any substance which is not wool. Power is

also given to declare by regulation the textile products which are to be exempt from the provisions of the Act, and, along lines to be uniformly adopted throughout the Commonwealth, the manner in which trade descriptions are to be affixed, the particulars to be contained in the trade descriptions and the standards and methods of testing and analysing textile products.

Timber Marketing.—The sale of a number of specified timbers generally susceptible to borer (Lyctus) attack is prohibited by No. 7 unless sold or offered for sale by standardized trade name, and restricts the use of such timbers unless previously scientifically treated with an approved preservative as a precaution against borer attack or infestation. Provision is made for the effective " kiln " drying or seasoning of timber, and technological standards are laid down for the proper protection of the public in the purchase or procuration of badly seasoned or green timber for commercial purposes. " Plywood " has been defined as " timber " for the purposes of the Act, and the proper testing of timber preservatives and the installation of drying or seasoning kilns provided for. Officers of the Forestry Commission are authorized to enter premises for timber testing and other purposes, and a number of offences prescribed by the Act are punishable on summary conviction by a penalty not exceeding £50.

Transport.—No. 22 is aimed, *inter alia*, at the control of trafficking in taxi-cab number plates, and with this end in view provides that, in relation to taxi-cabs and private hire cars in the Metropolitan and Newcastle Transport Districts, the Commissioner for Road Transport and Tramways may refuse to grant, or may cancel, a registration in the name of any person, unless he has the use, control and management of the vehicle. The Commissioner shall not transfer any new registration, and shall, where a registration is now current, transfer the registration once only ; provided that where such registration has been transferred he may, within a period of three years from the date of such transfer, in his absolute discretion, grant an application for further transfer if it is proved to his satisfaction that undue hardship arising since the date of the original transfer would be caused to the holder of the registration if the application were refused. Where the provisions of an award or industrial agreement regulate the hours of employment of employee-drivers of taxi-cabs or private hire cars, such provisions shall extend to owner-drivers. An application for registration or renewal of registration of a taxi-cab or private hire car shall not be granted unless the Commissioner is satisfied that the applicant has complied with the insurance requirements of the Workers' Compensation Act in respect of every driver of the vehicle who is a worker within the meaning of that Act.

War Service Land Settlement Agreement.—An agreement entered into between the Commonwealth and the State in relation to war service land settlement is ratified in No. 6. This State will administer the settling of Servicemen on the land in New South Wales under its forms and conditions of land tenure, but the Commonwealth will share the cost of concessions designed to establish the Servicemen settlers on a sound basis. The Commonwealth also undertakes to share certain potential losses connected with the making of advances for the purchase of stock and plant, effecting improvements, etc. Every applicant must be certified as suitable, by experience, to undertake settlement before being allotted a holding. There will be an " assistance period " of one year during which the settler will be paid a living allowance. He will not be required during that " assistance period " to make any capital repayment, and all rent and interest charges will be waived. Although the money required to implement the scheme must be obtained through the Australian Loan Council and 3¼ per cent. interest will be payable thereon, the settler will pay a land rent of only 2½ per cent. of the fair economic value thereof and interest of 2½ per cent. on his long-term purchase of Crown improvements. The Commonwealth and State will share, in addition, any loss arising from the land and improvements on transfer to the settler being valued at less than the cost of acquisition, development and improvement.

No. 14 is largely aimed at giving effect to the terms of the agreement between the Commonwealth and the State in relation to war service land settlement, which was approved and ratified by the War Service Land Settlement Agreement Act, 1945. The definitions of "member of the forces" and "discharged member of the forces" in the War Service Land Settlement Act, 1941, are enlarged and provision is made for the admission of other classes of persons to benefits under that Act. Limitations upon the transfer of holdings disposed of under that Act or under Part IVA of the Closer Settlement Amendment (Conversion) Act, 1943, are imposed. The Minister is authorized to develop and improve land for war service land settlement, and to make advances to discharged members of the forces and other eligible persons, for the purchase of stock, plant and equipment, and other purposes. Provision is made for the waiver or remission of rent and interest charges during an assistance period in respect of land disposed of and advances made to discharged members of the forces, and other eligible persons. The price to be paid upon acquisition of land for war service land settlement is limited to the standard of land values ruling as at February 10, 1942, and restrictions are imposed upon the transfer of land proclaimed under the Closer Settlement (Amendment) Act, 1907. The right of an owner to retain a part of land proposed to be resumed for closer settlement is limited and further provision is made for the disposal of land by way of closer settlement lease. Groups of three or more members of the forces, discharged members of the forces or other eligible persons in agreement with a landholder are enabled to obtain lands from such holder and take title thereto under closer settlement lease tenure. The Minister may make advances to members and discharged members of the forces and other eligible persons who are holders of qualification certificates, for the purpose of purchasing holdings. The period is extended within which applications may be made for conversion of certain holdings to leases in perpetuity or for the reduction of rent of certain holdings. There is also a number of amendments of a machinery character to the Closer Settlement and other Acts.

Western Lands.—No. 23 restricts the transfer of future Western Lands leases with a view to the prevention of undue increases in the price of land and its use for speculative or uneconomic purposes. The Minister is authorized to refuse his consent to the transfer of a holding in any case where the purchase money, rent or other consideration exceeds by 10 per cent. or more the fair market value of the land or the rent or other consideration appropriate to the fair market value. The constitution of local land boards in the Western Division is altered by the inclusion of the Western Lands Commissioner as Chairman of all such boards. The two present Chairmen of Land Boards will remain members of the boards but their designation is changed to Assistant Commissioners. Additional restrictions in respect of devolutions of leases are imposed for the purpose of preventing the creation of holdings too small for practical requirements. Lessees in the Western Division are given rights in regard to the use of timber and other material on their leases similar to the rights enjoyed by lessees in the Eastern and Central Divisions of the State.

Wild Flowers and Native Plants Protection.—Further provision for the protection of wild flowers and native plants is made by No. 8. The possession of wild flowers and native plants illegally obtained is made an offence, and the sale is prohibited of all protected wild flowers except Christmas Bush which has been grown on private land and picked by or with the consent of the owner or lessee of that land, or any protected wild flower or protected native plant which has been grown by a licensed grower and picked by or with the consent of the holder of the licence. The penalty for any breach of the Act is increased to an amount not exceeding £50, and in respect of a third or subsequent offence for selling protected wild flowers, the penalty is extended to imprisonment for a term not exceeding one month. Power is also given for the making of regulations to cover

the issue of licences for the growing of wild flowers and native plants on private land.

Workers' Compensation.—The following increases are made by No. 20 in the weekly rates of compensation: Worker, £3 to £3.10.0 ; Wife, £1 to £1.5.0 ; and Child, 8/6 to 10/–. The maximum amount of weekly payments has been increased from £5 to £6. These increases apply also in respect of compensation payable under the Workers' Compensation (Silicosis) Acts, and the Workmen's Compensation (Broken Hill) Act. In addition, under this latter measure, the rate for widows has been increased from £2.10.0 to £2.15.0 per week. The amount for which an employer is liable for hospital treatment has been increased: In-patients (not exceeding £3.3.0 per week): increased to 10/6 for each day or part of a day. Out-patients (3/– per treatment, but not exceeding £1.1.0 per week): increased to 3/6 per treatment but not exceeding £1.4.6 per week. In addition to these amounts, the employer will be liable for £1.1.0 in respect of each treatment which necessitates the use of the hospital theatre, and 10/6 for any X-ray photograph taken at the hospital.

Where a worker elects to take a lump-sum payment in respect of injuries set out in the Table in s. 16 of the principal Act, he will be entitled to at least half the amount set out in the Table, irrespective of the amount of weekly compensation received by him. In the case of a widow (or a female member of the worker's family acting as housekeeper), who has undertaken war work, claiming compensation in respect of the death of the worker, and the question of dependency arises, the Commission is empowered to award compensation if it is satisfied that she would have been dependent, either wholly or partly, upon the worker, but for the employment she entered into to assist the war effort. Also, a worker will be entitled to compensation in respect of a wife or female member of the family where the wife or female leaves her employment for the purpose of caring for the worker. Provision is made for the establishment of an Insurance Premiums Committee which shall prepare and present to the Governor, within six months after the commencement of this Act, a Fixed Loss Ratio Scheme providing for the fixing and adjustment, from time to time, of the rates of premium payable in respect of workers' compensation insurance policies. The Committee is also empowered to include in the Fixed Loss Ratio Scheme provision for the alteration by it, from time to time, of the Fixed Loss Ratio percentage ; for the exemption of any licensed insurer or class of licensed insurers from the operation of the Scheme ; for the imposition and recovery of penalties, and for the cancellation of licences. In addition, the Committee, when directed by the Minister, shall investigate and furnish to him a report and recommendation with respect to any matters relevant to workers' compensation insurance in this State. A new method of financing the Workers' Compensation (Silicosis) Fund is provided for.

Wyangala Dam Hydro-electric Development (Construction).—No. 15 authorizes the construction by the Minister for Public Works of a hydro-electric power station at Wyangala, high tension transmission lines from Wyangala to Cowra, Orange, Forbes, and Parkes and an inter-connection with the Commissioner for Railways' transmission line from Lithgow to Dubbo. The works constructed under the Act are to be administered as an integral part of the Southern Electricity Supply.

3. QUEENSLAND

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DURING the Session of Parliament, which commenced on August 14, 1945, and stood adjourned on November 29, 1945, 28 measures were passed, and the following are the summaries of the major measures passed during the period, the remainder being Appropriation Acts, or Acts of a local or domestic nature. They were all assented to by the end of 1945.

Building Operations and Timber and Building Materials Control.—Act No. 22 is one of a series of three measures primarily intended to cope with the housing shortage. It makes provision in aid of housing and other requirements and is designed to regulate and control building operations, and timber and building materials.

These matters were under Commonwealth Control by means of Commonwealth National Security Regulations. When the Commonwealth relinquished control so far as building operations were concerned, the State legislated in order to ensure a minimum dislocation in building and allied industries.

The object of this measure is to conserve timber and building materials so that same may primarily be made available for the construction, enlargement and maintenance of dwellings, and for building requirements urgently needed for public purposes and for use in primary and secondary industries of major importance.

The Act will continue in force until a proclamation is made determining its operation or until December 31, 1951, whichever date is the earlier.

The Minister has delegated the control of building operations to the Director of the Bureau of Industry and Government Statistician.

The definitions of " dwelling-house," " building operation," " cost," and " primary production," follow in the main those of the Commonwealth National Security Regulations. A " dwelling-house " is defined as a building designed for the housing of a single family unit, or for the residence of the clergy or members of a religious order, but does not include a boarding-house, block of flats, guest-house, lodging-house, or residential shop.

" Primary production " includes fishing and forestry operations as well as ordinary pastoral and agricultural pursuits ; but for the purpose of obtaining any benefit under this Act the primary production must be carried on by the person concerned as the principal means of his livelihood.

The measure lays down that (except as further provided) a person shall not without the proper permit of the Minister (or his delegated authority) commence or carry out or supervise any building operation. A " person " is defined as including owner, lessee, architect, engineer, contractor, builder, supervisor or employee.

The Minister has absolute discretion in granting or refusing to grant a permit ; he may also grant same in respect of part only of the building operation concerned. There is also power of suspension of the permit, and it may be revoked in certain cases.

In any case the approval of a Local Authority authorizing the building operation must be obtained, and that approval must be displayed and continue to be displayed during the building operation.

For the convenience of administration, the State is divided into three zones.

There are certain exemptions from the " permit " provisions. The permit provisions will not apply—

(*a*) to any building used or intended to be used as a dwelling by a primary producer and situated in the place where the primary production is carried on by him ;

(*b*) to any building for storing and/or treating primary produce where the cost does not exceed five hundred pounds ;

(*c*) to any building operation where the cost is met by the Commonwealth or the State or by a local body acting pursuant to its legislative powers ;

(*d*) to any homes built by the Commonwealth War Service Homes Commissioner, or by the State Housing Commissioner ;

(*e*) to sewerage connections ordered by a local authority ;

(*f*) to certain plumbing and electrical repairs.

In respect of the applications of the Zones—

Zone " A." (*a*) The permit provisions will not apply in this Zone to any

building operation not exceeding in any financial year the sum of one hundred pounds. Nor will a permit be necessary in respect of a dwelling-house, including additions and alterations, unless the area thereof will exceed one thousand two hundred and fifty square feet.

(*b*) As to Zone "B," which is a seaside or recreational area, the same exemptions apply as in the case of Zone "A." But in this Zone the dwelling-house must be for the purpose of a permanent residence. If at any time within the operation of this Part the person constructing the dwelling-house or any other person to whom he may have disposed of same by sale, lease, or in any other manner, shall use the dwelling-house for any purpose other than as a permanent residence he shall be guilty of an offence.

(*c*) In regard to Zone "C" (i.e., the Country areas) no permit is necessary in respect of a dwelling-house of whatever dimension ; nor to any other building operation where the cost in the financial year does not exceed five hundred pounds.

The Minister may give directions in cases where he suspects that the Act is being infringed. A person must comply with the directions of any permit or other notice. There are also certain powers as to entry and inspection and of inspection of books and records.

The Governor-in-Council may make regulations as to classes of building which will receive priority in the supply of building materials and timber. A system of priority certificates obtains. The Local Authority's powers and jurisdiction in respect of building by-laws are preserved, but regulations may be made to ensure facility of administration between the local authority and the Minister (or delegated authority) under this Act.

Any person who contravenes or fails to comply with any provision of this part shall be guilty of an offence. An offence may at the option of the Minister be prosecuted in a summary way or upon indictment.

As to punishment—(*a*) if offence is prosecuted summarily—a penalty not exceeding £100 in the case of an individual offender or in the case of a body corporate a penalty not exceeding £500. (*b*) Upon indictment—the penalty is not exceeding £250 or imprisonment for six months in the case of an individual or in the case of a body corporate a penalty not exceeding £2,000.

Where the offence is prosecuted on indictment, the adjudicating Court has further powers to order the forfeit of the possession of the house and land (the subject of the offence) in certain cases. Failure to observe the order of forfeiture constitutes contempt of court. Such order may be in force for the remaining period of the operation of the Act or for a lesser period—but in any case not less than twelve months.

During the currency of the order the Public Curator may let the building as a dwelling-house, or may convert same into a dwelling-house for the purpose. The offender however is paid any rents or profits, but less a sum fixed by the Minister for costs of administration, alterations and other outgoings. When the building reverts to the owner it shall revert subject to any leases or tenancies existing at the time.

In regard to timber control—power is given to the Governor-in-Council to appoint a Chief Controller of Timber. The Chief Controller may control the production, treatment, supply, movement, storage, and use of timber and for that purpose may give any necessary directions. He may also require any owner of timber to sell or supply timber in such quantity and quality, and within such time, as specified in the requirement. Prices are determined according to the Commonwealth National Security Price Fixing Regulations (and on their repeal) by orders under the Profiteering Prevention Act of 1920–38 of the State. Any person failing or refusing to comply with any direction or requirement is liable to a penalty of £500 ; moreover the timber the subject matter of the offence may be forfeited.

In regard to the Part dealing with Building Materials Control—provision is

made for the appointment of Controller or Controllers of Building Materials, who will have powers similar in the main to those of the Chief Timber Controller. A penalty of £500 is imposed for breach of this Part.

This measure is to be read and construed with the State Development and Public Works Organization Acts. This will facilitate administration and ensure proper co-operation with all Governmental and other local bodies in its administration.

Housing.—Act No. 24 is to make better provision and improve the housing conditions and to provide for the constitution of and powers and authorities of a State Housing Commission.

This measure, which is comprehensive in its ambit, repeals the existing State Advances Act and abolishes the State Advances Corporation constituted thereunder. On the commencement of this Act all assets and liabilities of the dissolved corporation are vested in the Commission under this Act. All rights are preserved and regulations and orders-in-council are continued in force until repealed or superseded under this Act.

The Act is administered by the Minister and under the Minister the Commission, by the Commissioner and other officers in that behalf.

The Queensland Housing Commission representing the Crown is constituted a corporation sole with the usual corporate powers possessed by a Crown instrumentality.

A Queensland Housing Commission Fund is established. Loans may be made to this Fund by the Treasurer. There is also power, with the approval of the Governor-in-Council, for the Commission to borrow money, and for the issue of debentures.

Subject to the Minister, it shall be the duty of the Commission to attain, as far as may be, the general improvement of the housing conditions of the citizens of the State, and without limiting the generality of this duty, to provide for adequate and suitable housing accommodation for persons of limited means and for persons not otherwise adequately housed.

The Commission may carry out surveys and investigations, co-operate and consult with a local authority in respect of town-planning schemes and plans for preventing or remedying conditions usually referred to as "slumming" conditions, or in the direction of promulgating uniform building regulations.

Under this Act, the Commission will not only be a lending authority but will be a house-building authority and will be enabled to sell or lease houses built by it.

The Commission with the consent of the Minister may purchase or compulsorily acquire land ; but a single purchase of over £500 must obtain the approval of the Governor-in-Council.

For the purposes of resumption the Commission will be a Crown constructing authority under the Public Works Land Resumption Acts, and will have the additional powers of the Co-ordinator General of Works in regard to taking land.

As to advances for housing purposes—in order to assist a person

(*a*) to erect a dwelling-house on land owned by him or

(*b*) to enlarge, alter, repair, improve, or paint a house on land owned by him

the Commissioner may make an advance upon the security of the land together with such additional collateral security as is necessary.

The mortgagor must be a free-holder, or hold land under an approved tenure. The dwelling-house must be used as a home for himself and his family and dependants and for no other purpose. Neither the borrower nor the wife or husband (if any) of the borrower must own a dwelling-house in the State or elsewhere.

The advance is up to 16/– in the £1 of the fair estimated value of the house and land. But when the Minister is satisfied that owing to an applicant's large

family responsibilities this limit would entail hardship, the advance may be extended to 18/– in the £1.

The maximum advance in case of a wooden building is £1,000 and in respect of a brick or concrete dwelling £1,250.

The " means " test, namely: allowing borrowers with incomes not exceeding £750 per annum, is abolished; but when the question of priority of application arises, priority shall be given to an applicant of £750 per annum or less.

Advances may also be made in respect of electrical and mechanical equipment, heating, kitchen, laundry and labour-saving equipment and devices on the prescribed security.

In respect of the houses which the Commission has itself built—power is given for the Commissioner to sell these on terms under contract of sale. A house shall not be sold to any person unless the Commission is satisfied that the house is intended to be used by the person as a home for himself and his dependants and for no other purpose and that neither the person nor the wife or husband (if any) of that person is the owner of any other house in Queensland or elsewhere.

In regard to terms of sale, these will be prescribed. However, a deposit of twenty per cent. of the purchase price is necessary. Here, the Minister, if satisfied that owing to an applicant's large family responsibilities such deposit would entail hardship, may reduce the deposit to ten per cent. of the purchase price.

The Commission also has power to arrange for the letting of houses vested in it to eligible persons. Priority will be given to persons who have been displaced from their homes in the execution of any Act or law, or are occupying insanitary or overcrowded houses or are living under unsatisfactory housing conditions or are homeless.

The Governor-in-Council may make regulations fixing what shall be the economic rental of these homes.

The Commission, with the approval of the Governor-in-Council, shall assume the management and control of any joint Commonwealth-State Housing Scheme. One such scheme has already been approved by virtue of the Commonwealth and State Housing Agreement Act of 1945.

There will be a special fund established called " The Commonwealth-State Housing Fund." This will be kept separately but will be managed and controlled as directed by the Treasurer.

The remainder of the measure deals with machinery and administrative provisions, and same follow in the main the principles of the repealed Acts.

Commonwealth and State Housing Agreement.—Act No. 2 permits of the making of an agreement by the Commonwealth and the State in the form set out in the Commonwealth-State Housing Agreement Act of 1945.

The execution of the agreement on behalf of Queensland is duly authorized. It is in the same terms as the agreement made with other States (see *supra*).

Co-ordination of Rural Advances and Agricultural Bank.—Act No. 18 gives returned Service-men (i.e. male and female members of the Forces) and other eligible persons as from time to time defined by order-in-council, a period of three years free of interest and principal payments in respect to loans obtained by them from the Agricultural Bank. This concession will be in addition to the present provisions as to mortgagors from the Bank—i.e. a period not exceeding five years in which interest only is payable, and then thirty years within which to redeem the loan.

This measure will aid returned soldiers who have decided to settle on the land.

Advances may also be made to companies for the purposes of fodder conservation and pasture renovation up to £3,000.

Gift Duty.—Act No. 19 amends the Gift Duty Act of 1926 with the object of assisting returned members of the Forces in their re-establishment in civil life.

The measure provided that gift duty shall not be payable in respect of a gift or gifts made during the operation of the measure (namely five years) by the same

donor to the same donee who is a member of the Forces, where the value of such gift does not during the period exceed in the aggregate the sum of two thousand pounds.

Where the value of such gift exceeds the sum of two thousand pounds, gift duty shall be payable only in respect of the amount remaining after deducting such sum therefrom.

The Commissioner must be satisfied that the donee was a member of the Forces (as defined in the Act) and that the gift was made for the purpose of the rehabilitation or re-establishment of the donee in civil life in Australia.

Queensland Institute of Medical Research.—It is considered that a system of research in medical science, particularly in relation to diseases peculiar to the State, is an essential factor in and towards the betterment of the health and general well-being of the people of the State.

Act No. 21 accordingly establishes an Institute of Medical Research. It will make research into any branch or branches of medical science, and especially in relation to Queensland fevers, lead poisoning, virus diseases, effect on health of industrial processes, the incidence of disease in relation to social and nutritional status, the incidence of disease in relation to geographical districts and climatic influences in Queensland, certain tropical diseases in North Queensland.

The Institute shall be under the control and management of a council, which also will be a body corporate. The membership will be representative of the Government and various medical interests. A Director and Deputy Director shall also be appointed by the Governor-in-Council.

The Council may enter into and carry out agreements with various health and hospital bodies and with the University of the State. The central establishment of the Institute shall be in association with the Pathological Department of the Brisbane Hospital. There is wide power of mutual co-operation between the Council and Hospital Boards and the Faculty of Medicine at the University which will enable certain procedures in investigation in medical research to be carried out.

Discoveries and inventions are vested in the Council, but a bonus may be granted to discoverers. There will be a Trust Fund established at the Treasury subject to usual audit and budgetary provisions.

Hospital Benefits Agreement.—No. 2 authorizes the execution by the State of Queensland of an agreement between the Commonwealth and the State relating to hospitals benefit. The agreement will operate as from January 1, 1946. The Commonwealth will provide financial assistance to the State in respect of beds occupied by persons qualified under the Act in public and non-public wards in public hospitals. Approximately the sum of £420,000 will be received from the Commonwealth annually. Of that amount £298,000 will be for maintenance and £122,000 for capital expenditure.

War Service Land Settlement Acquisition.—The object of No. 25 is to make provision for the acquisition of land for the purpose of war service land settlement.

The measure will shorten the time within which land may be resumed so that same may be applied for the purpose of service land settlement.

The Minister for Lands shall be the resuming authority for freehold and Crown leaseholds so required. Subject to important modifications the machinery of the Public Works Land Resumption Acts is applied. The compensation in respect of resumptions of pastoral leases or grazing selections will be as set out in the Land Acts with an additional payment based upon an additional year's tenure. Land may be taken also by agreement. Power is also given to enter land for the purposes of the Act and for the purpose of any necessary surveys or soil analysis.

No. 30 is a further measure having for its object aid to settlement on the land of discharged members of the Forces and other " eligible " persons.

The Act authorizes the execution of an agreement between the Commonwealth and the State in the form of the draft in the Schedule.

The agreement when finally executed is published by proclamation in the *Gazette* and thereupon has operation and legal effect accordingly. The proclamation is duly laid on the table of the Legislative Assembly.

The agreement shortly provides—

(i) " Eligible " persons are defined somewhat similar to the definition in the Co-ordination of Rural Advances and Agricultural Bank Amendment Act of 1945.

(ii) Land settlement shall be carried out under the following main principles—

(*a*) economic prospects to be sound ; (*b*) applicants to satisfy the prescribed authority that they are suitable persons ; (*c*) holdings must be of sufficient size to enable them to operate same efficiently and to earn a reasonable income ; (*d*) lack of capital on the part of an applicant is not a definite disability—but a settler is expected to invest some of his resources therein ; (*e*) adequate advice and technical guidance is provided.

The agreement also makes due provision for the allocation of the financial arrangements between the Commonwealth and the State and the apportionment of losses, if any.

Officials in Parliament.—S. 5 of the Officials in Parliament Acts, 1896 to 1944, provides that any person holding an office or place of profit under the Crown or having a pension from the Crown . . . and not being one of the officers named in a Proclamation under the Act (e.g. Ministers of the Crown) shall be incapable of being elected, or of sitting or voting as a member of the Legislative Assembly ; and the election of any such person to be a member shall be null and void and a writ shall forthwith issue for the election of a member in his stead.

The result of this section is that holders of offices or places of profit under the Crown (Public Servants, railway employees and Government employees generally) must resign their office before nomination day ; otherwise their election is void.

No. 26 will allow such persons to contest a State election without resigning their office. Leave of absence without pay for a period up to two months for this purpose is allowed ; moreover if there is any leave of absence on pay due to him such person may utilize same up to two months.

If elected, he automatically resigns his office from election day and all payments for leave or otherwise cease on that day. If not elected he returns to his office.

Public Safety.—The Public Safety Act of 1940 was passed in order to make provision for the welfare, order, and public safety of the State of Queensland during the state of war. During the period of the operation of the measure the Governor-in-Council made many regulations and the Council of Public Safety (constituted under the Act) issued many directions and orders, some being of an urgent nature. The measure on the whole worked satisfactorily.

As hostilities have ceased the Government decided to repeal the Act, and with it the regulations and directions.

No. 7 provides that The Public Safety Act of 1940 is repealed and the Council of Safety abolished. Except as otherwise provided in the Act, the regulations, directions, and orders cease to have effect. However, to prevent undue dislocation certain regulations and directions are kept in force. These are set out in a Schedule. Some of these will expire by effluxion of time. The Governor-in-Council can repeal them. The main regulations kept in force are (i) certain remissions of fees payable by medical practitioners, dentists and kindred professions, while on active service ; (ii) certain provisions aiding man-power in the sugar industry ; (iii) abrogation of certain conditions in mining tenements in favour of men on active service ; (iv) sundry regulations under the Liquor Acts

to cope with shortage of supplies and a fair allocation. Usual saving provisions obtain in respect of the repealed regulations.

Fish and Oysters.—No. 28 tightens up inspection and administrative provisions. Forfeited fish may be disposed of subject to any general direction of the Minister. Hence, instead of fish being destroyed or allowed to waste, they may be sent to institutions.

Penalties are increased for the offence of dynamiting fish or having explosives on board. The measure also controls the introduction of exotic fish into the State. This is necessary especially as it has been shown that some introduced species have become a menace to the indigenous species, especially fresh water fish. An inspector may requisition boats and gear for the purposes of administering the Act. Fish ladders are to be erected by a constructing authority when constructing dams, weirs and reservoirs.

Government Printing Office.—No. 1 permits appeals to be made by classified officers against the promotion of another officer. Appeals are made on the grounds of senior efficiency or equal efficiency and seniority. Appeals are also permitted by officers and employees against punishment and disciplinary action. Appeals may be on the ground of innocence or excessive severity of punishment.

The appeal board consists of a Stipendiary magistrate as Chairman, a Minister's representative and an employee's representative nominated by the Executive of the Union of which the appellant is a member.

Motor Vehicles Insurance.—No. 27 will bring Queensland policies under this Act into line with those of the other States, so that insurance not only covers Queensland but any of the States or territories of the Commonwealth.

Firearms Licence.—No. 4 makes considerable amendment in the principal Act of 1927 and re-arranges the measure into four parts. The general intention and scope is to give the police wider and more definite powers over the use and possession of firearms, and other dangerous weapons, having also in view the safety of the community against undesirable persons having firearms.

The principal Act was in the main confined to a " firearm " where the barrel was limited to nine inches. The new definition of " concealable firearm " embraces any firearm or part thereof of any length of barrel designed for aiming and firing from one hand and which is reasonably capable of being carried concealed about the person. The definition of " firearm " also includes weapons used for discharging noxious or irritant liquids, powder, gas or chemicals.

There are certain exemptions—Commonwealth and State authorities, scientific operators, manufacturers on behalf of the Commonwealth and the State and members of authorized rifle clubs.

In the original Act, applications for licence were made to the Minister. In practice however the police administered the Act ; and this measure gives statutory recognition to that practice.

If the police refuse to issue a licence for a concealable firearm there is an appeal to the Minister, whose decision is final.

Due provisions are made for renewals of licence, and for the revocation of same on certain grounds. Proper records will be kept at the Criminal Investigation Branch.

Stringent provisions deal with the sale or hire of concealable firearms, and they must not be pawned with a pawnbroker.

No person shall use or discharge, or have in his possession any machine gun or sub-machine gun, or hand-grenade.

Any person having in his possession a firearm capable of discharging a noxious liquid in a public place, except for a lawful purpose, is guilty of an offence.

The police may demand production of licence or certificate. A member of the police force may seize and detain any concealable firearm found in the possession of or being used or carried by any person who is required by the Act

to be, but who is not, or whom such member of the police force reasonably suspects is not, the holder of a licence therefor under the Act.

Wide powers of search for firearms in a public place are given to the police, and firearms may be seized. Wide power is also given to search premises. Obstruction of the police is an offence. The use of silencers is prohibited.

Defacing or altering the number or identification mark of a firearm is an offence.

Special provisions deal with " souvenir " firearms. If a person desires to retain a " souvenir " firearm, lawfully in his possession, he is required to obtain the necessary permit from the police. The " souvenir " in all cases must be rendered harmless and so dealt with that it cannot be repaired or restored so as to be capable of discharging shot, missiles or other substances.

Local Government.—No. 5 amends the Local Government Acts, 1936 to 1943, and the City of Brisbane Acts, 1924 to 1944, in certain directions.

Under the principal Acts, power was given to a Local Authority and the Brisbane City Council to constitute a Post-war Reconstruction Works and Services Fund. However, the measure allowed the moneys in these funds to be spent after the termination of the war. Actually, although hostilities have terminated, the war strictly speaking may probably not " cease " until peace has been proclaimed.

However, both the Local Authorities and the Brisbane City Council desire to apply the reserve funds during the current financial year and subsequent years ; and this measure allows this to be done.

Voting provisions in local authority elections are brought into line with recent amendments in the State electoral law (e.g. postal voting may be permitted in respect of certain religious orders, and also in respect of those persons whose religious beliefs preclude them from voting on election day).

Fruit Marketing Organization.—Recommendations of a Royal Commission appointed to enquire into matters dealing with the marketing of fruit and vegetables are adopted in No. 9.

The Committee of Direction (which is the controlling body of the organization) is empowered to act as principal or agent in refrigeration, cold storage, and the ripening of fruit and vegetables.

The Committee may also conduct the business of processing and manufacture and treatment of fruit and vegetables and of selling the product derived from such processing or treatment.

The powers of the Committee are extended—

(i) It may hold property outside the State ;
(ii) it may engage in the marketing of fruit either as principal or agent ;
(iii) it may market in Queensland fruit and vegetables grown outside the State and brought into the State ;
(iv) it may engage in marketing outside Queensland ;
(v) it has general trading powers and hence may trade in machinery, fertilizers, fruit trees, fruit and vegetable cases, and marketing requisites generally.

Where the Committee is unable to obtain land by agreement, the Minister for Lands with the approval of the Governor-in-Council may acquire land on its behalf.

The Governor-in-Council may require the Committee to carry on as principal the business of supplying fruit and vegetables by retail or wholesale or both in such local authorities' areas as specified in the order-in-council. This will enable shires distant from the metropolis to be supplied in reasonable quantities with fruit and vegetables and may prevent gluts.

The Committee is made a permanent body corporate and in addition to representatives of each sectional group committee, the Director of Marketing shall be

an *ex officio* member. The Governor-in-Council also shall appoint a member who shall represent the consumers.

Public Curator.—No. 10 makes considerable amendment in the principal Act and is designed primarily to cheapen the cost of administering deceased estates of small value.

The inexpensive procedure of filing in the Court an election to administer estates not exceeding £400, without an order to administer or without probate, is extended to include estates up to £500.

A less costly procedure for dealing with land when the gross estate does not exceed £1,000, and the nett estate does not exceed £600. This is accomplished by filing a certificate with the registrar of titles by the Public Curator with a request for entry of transmission.

Provisions also enable a widow to have land transferred to her more cheaply than is possible under present conditions.

Provisions enable the Public Curator to sell land over £1,000 without the consent of the Court. The Public Curator may also enter into sharefarming agreements. The limit up to which the Public Curator can borrow on behalf of estates without the consent of the Court has been raised from £500 to £2,000.

The Public Curator is also entitled to spend up to £200 per annum or less to the widow instead of being limited, as at present, to an estate of £50 or less.

The Public Curator is also entitled to spend up to £200 per annum instead of £80 per annum as at present from a minor's share for the maintenance, education, and benefit of the minor.

Prisons.—At present certain State prison farms are comprised within the area of State forests. Ss. 69 and 70 of the Prisons Act secure privacy to prisons, i.e. provide that if a person who, contrary to the Prisons Regulations, enters or attempts to enter a prison or communicates with prisoners, or conveys letters, articles, etc., to a prisoner or who loiters about in the vicinity of a prison, is guilty of an offence. These penal provisions are by No. 32 extended to a prison farm established in a State forest ; and where those sections extend, the State Forest and National Parks Acts are to be read and construed subject to those provisions.

Coal and Oil Shale Mine Workers' Pensions.—No. 33 amends the principal Act in various directions. It excludes from the definition of " mine worker " (and hence of contributions and benefit) a person who subsequently to this amending Act comes into the mining industry at 50 years of age or over unless such a person has been previously engaged in the industry for at least three years since the pension scheme commenced. In respect of payments to the widow of a deceased pensioner, the Tribunal must be satisfied that the widow was totally or wholly maintained by the pensioner before payments are allowed. Similarly in the case of other dependants, they must have been totally or wholly maintained by the deceased pensioner.

An alteration in the basis of calculating the period during which the receipt of workers' compensation disqualified the pensioner or dependants of a mine worker is made. The existing basis provides for the division of the amount of compensation by the relative pension rate, whereas the amending Act provides for the division of the compensation on the weekly worker's compensation rate. Hence this will ensure a shorter period of waiting and benefit the mine worker and his dependants. If a mine worker or his dependants receive money by way of damages in respect of an injury as defined by the Act, the mine worker or his dependants so far as the " waiting period " is concerned, will be treated in the same way as if the damages were workers' compensation moneys.

Children's Protection.—During 1945 a case was heard before the police court whereby a father was imprisoned for severely beating his child. Proceedings were taken under the Children's Protection Act of 1896. Under the Act, however, there was no power to require defendant to also enter into a bond to keep the

peace and be of good behaviour, which provisions are contained in the Criminal Code. No. 3 will remedy this deficiency accordingly.

Liquor Licensing.—The Liquor Act Amendment Act of 1935, which created the Licensing Commission also established a Liquor Act Trust Fund made up of amounts received on the sale by public tender of licences removed to new sites. Compensation is payable out of the fund in respect of certain surrendered licences. To aim at the stability of the fund the fees payable by licensees has been raised from 2½ to 3 per cent. calculated on the purchase of liquor for the previous year. The additional ½ per cent. is recoverable from the owner. Provision hence is made for the compulsory registration of owners.

Provisions also deal with accommodation requirements. If a licensee fails to obey the order of the Commission, he can be called upon to " show cause " why his licence shall not be cancelled.

Convictions after the passing of No. 20 in respect of " Black Marketing " offences under the Commonwealth Black Marketing Act of 1942 entails forfeiture of the licence.

Certain powers and authorities are given to the Licensing Commission to forfeit licences for " cause shown "—i.e. on the following grounds—

(*a*) that the licensee is a person of drunken or dissolute habits or immoral character and otherwise unfit to hold the licence ;

(*b*) that the licensed premises have been the resort of prostitutes or persons under surveillance of the police ;

(*c*) that the licensed premises have been conducted in an improper manner and drunkenness permitted therein ;

(*d*) that the licensed premises have been used for the purposes of betting or gambling, or for games prohibited at law.

There is a further ground dealing with " tied houses "—

(*e*) That the licensee does not keep in stock or supply in reasonable quantities the kinds and descriptions of liquor usually consumed or demanded by the general public in the locality of the licensed premises, supplies of which are reasonably obtainable by the licensee—

except that if a registered brewer is entitled to an estate in freehold in possession, or to an estate of leasehold from the Crown of the land on which the licensed premises are situated, or is the mortgagee in possession of the land, it shall be a sufficient answer to this ground for the licensee to show that he is bound by agreement with such brewer not to stock or supply any class or kind of liquor brewed or made by a person other than such brewer and similar to a class or kind of liquor brewed or made by such brewer, and that subject to the agreement he does in fact stock and supply in reasonable quantities all classes and kinds of liquor usually consumed or demanded in the locality in which the licensed premises are situated.

There are also other grounds—

That the holder of a certificate of registration as a spirit merchant has not maintained his premises where the liquor is stored in a secure and proper manner or that same are out of repair ; and

Conviction for making false returns of liquor purchases.

Usual procedure as to notice and right to be heard obtains in respect of hearing by the Commission as to " show cause " cases above. The Commission, however, in lieu of forfeiture may suspend the licence for a period.

4. SOUTH AUSTRALIA

[*Contributed by* E. L. Bean, Esq., C.M.G., *Parliamentary Draftsman.*]

In the session of 1945 the South Australian Parliament passed forty-four Acts.

They dealt with a wide range of topics ; but undoubtedly the predominant theme was the regulation of the economic life of the community.

The following are the most important of the Acts passed:—

Acts Interpretation.—No. 10 provides that all South Australian Acts, whenever passed, are to be construed so as not to exceed the legislative power of the State, and that if any Act or provision of an Act exceeds that power it is, nevertheless, to be treated as a valid enactment to the extent to which it does not exceed that power.

This Act also declares that if the last day of the period fixed by any Act for taking any proceeding or doing or suffering anything falls on a Saturday, the period shall be extended to the next day, not being a Sunday, Saturday, or public holiday. This amendment has been made because of the introduction of the five-day week into the public service.

Bailiffs and Inquiry Agents.—No. 16 provides for the licensing of bailiffs and inquiry agents. The term bailiffs includes persons who, whether as principals or employees, serve or execute legal process or distress for fee, gain, or reward ; inquiry agents are persons who, whether as principals or employees, undertake to obtain, for gain, fee, or reward, any evidence or information for the purpose of divorce or other matrimonial proceedings.

Exemptions from licensing are provided for members of the public service, the police force, legal practitioners and their clerks, and (so far as the obtaining of evidence in matrimonial cases is concerned) medical practitioners.

Licences will be issued by the Attorney-General. A licence will be issued only after the making of such inquiries as the Attorney-General thinks necessary and only if the Attorney-General is satisfied that the applicant is a fit and proper person to hold a licence. If satisfied that any licensee is not a fit and proper person to continue to be licensed, the Attorney-General may cancel or suspend his licence. Licences have to be renewed annually. There is an appeal to a local court of full jurisdiction from any decision of the Attorney-General refusing, cancelling, or suspending a licence.

Bakehouses Registration.—No. 34 requires every bakehouse to be registered annually by the local board of health for the district in which it is situated. To secure registration, a bakehouse must comply with conditions prescribed by regulation.

The Act also contains provisions, applicable only to the Metropolitan Area of Adelaide, for prohibiting the baking of bread on Saturdays and Sundays.

Building Materials.—No. 41 provides for the control, until November 1, 1946, of bricks, tiles, corrugated asbestos, timber, water and gas pipes, and plain and corrugated galvanized iron. The control may be extended to other building materials by proclamation. A person may not use, without a permit, any controlled building material for the construction of a dwelling-house exceeding £1,000 in cost, or any other building or structure exceeding £150 in cost, or in carrying out repairs costing more than £100, or in carrying out works for the conversion of a building into two or more dwellings at a cost exceeding £200. Power is given to vary these restrictions by proclamation.

Priority certificates may be issued for the supply of controlled building materials. If priority certificates are issued for any material, sellers of that material must honour the certificates in their respective priorities, and must not supply that material to a person who has not a priority certificate unless there is a surplus of the material over and above the quantity required to honour all priority certificates which have been issued.

Commonwealth and State Housing Agreement.—No. 28 ratifies a Housing Agreement made between the Commonwealth and the States. This agreement provides that the Commonwealth will finance State Housing Authorities ; that such authorities will grant rebates of rent to tenants, so that a tenant will not be required to pay rent in excess of one-fifth of his income ; and that losses on

the housing schemes will be shared, three-fifths being borne by the Commonwealth, two-fifths by the States.

Country Factories.—No. 22 applies only within such parts of the State, outside the Adelaide metropolitan area, as are defined by proclamation.

Within these proclaimed areas, it is provided that every factory must be registered. "Factory" is defined to mean, in general, any place where any one or more persons are employed at manual labour; but premises used solely for agricultural, pastoral, etc., purposes are exempted from the Act.

Extensive provision is made to ensure that premises used as factories are suitable for such use, for the fencing and safeguarding of machinery, for notification of accidents, for fire protection and ventilation of factories, and for other matters. The effect is that country factories will, in general, be governed by legislation similar to that now applying to the metropolitan area by virtue of Part V of the Industrial Code, 1920.

Crown Rates and Taxes Recovery.—No. 23 provides a simple procedure whereby land upon which there are arrears of Crown rates or taxes may be sold to satisfy such arrears.

If any Crown rates or taxes payable in respect of any land are in arrear for three years or more, the Government department to which the money is owing, may request the Minister of Lands to institute proceedings for the sale of the land to recover the arrears. Upon receipt of such a request the Minister of Lands is to ascertain all the Crown rates and taxes which are in arrear and payable to any Government department (whether in arrear for three years or less).

The Minister must then give notice of the intended sale to all persons having a registered interest in the land and may, after giving other public notice, offer the land at auction. If a sale is not made at auction, the Minister may sell by private contract.

If the land is sold, the Minister is empowered to transfer or convey the land to the purchaser. If at the auction no bid or no sufficient bid is made, the Minister may transfer or convey the land to himself and subsequently dispose of the land as he thinks fit or, in the case of land held under a Crown lease or agreement, may cancel the lease or agreement.

When land is transferred or conveyed by the Minister the purchaser takes the fee simple free from all encumbrances and charges, and any Crown lease or agreement over the land is cancelled. When a Crown lease or agreement is so cancelled, all previous and future owners and occupiers are freed from all liability for all pre-existing Crown and local government rates and taxes and for all amounts payable under the Crown lease or agreement.

Amounts received on the sale of any land are to be applied, first, in payment of costs, secondly, in payment of Crown rates and taxes and money due under any Crown lease or agreement over the land; thirdly, in payment of any local government rates; fourthly, in discharge of any mortgages, encumbrances and charges; and fifthly, any residue is to be held in trust for the owner.

Early Closing.—No. 36 abolishes the late shopping night (which occurs on Friday in the Adelaide metropolitan area and either Friday or Saturday in country shopping districts). It also provides that on ordinary weekdays hairdressers and tobacconists must close at 6 p.m. Formerly these shops had the privilege of remaining open until 8 p.m.

A further provision is that in any shop which is outside the metropolitan area and in which no person, other than the shopkeeper, his wife, children or manager, are employed, goods may be supplied after the closing time to any person who resides five miles or more from the shop and has during the previous six hours travelled from his residence to the shop.

Education.—No. 37 provides for the establishment of two boards. The first, to be known as the "Education Policy Board," will consist of the Director of Education and five other members. It is an advisory body and its duty will be

to advise the Minister on questions referred to it by him. The matters which may be so referred are the following:—

(*a*) the opening and closing of schools ; (*b*) alterations in the nature, classification, staffing, or status of schools ; (*c*) building new schools or additions to schools ; (*d*) alterations in the general principles of selecting, training, appointing, classifying, promoting or transferring teachers ; (*e*) new regulations and alterations of and additions to regulations ; (*f*) general instructions to teachers ; (*g*) any new administrative or educational policy affecting schools ; (*h*) any other matter prescribed by regulation.

The other new board is called " The Teachers Salaries Board." Its function is indicated by its name. It consists of four members and a Chairman. Two of the members are to be appointed by the Governor and two elected by the teachers. Of the elected members one is to be a man elected by the male teachers, and one a woman, elected by women teachers. The Chairman must be a special magistrate.

In addition to its power to fix teachers' salaries the board also is empowered to consider appeals against proposed appointments to what are known as " special " positions in the teaching service.

A " special " position is one to which a teacher, other than the teacher whose name appears at the head of the official promotion list, is appointed.

Evidence.—No. 29 provides that the conviction of a person for an offence will, in civil proceedings, be evidence of the commission of that offence, both against the person convicted and those claiming through or under him. It also provides that if the Supreme Court in its matrimonial causes jurisdiction has found a person guilty of adultery, the finding will be admissible against him as evidence of adultery in any subsequent proceedings in the Supreme Court in the same jurisdiction, notwithstanding that the parties in the subsequent proceedings are not the same as in the proceedings wherein the finding was made.

Hospital Benefits.—No. 20 ratifies an Agreement made between the Commonwealth and the States under which subsidies of 6/– per day per patient are paid by the Commonwealth to hospital authorities on condition that the fees chargeable to patients are correspondingly reduced.

Industries.—No. 17 enables the Treasurer of the State to enter into and carry out agreements with the Commonwealth or any person relating to the establishment of any industries in South Australia. For the purpose of carrying out any such agreement the Treasurer is empowered to buy and sell land, make grants and loans of money and enter into any other transaction or do any act, matter or thing.

Law of Property.—No. 18 provides that a person shall not transfer or convey or agree to transfer or convey any estate of freehold in land to an alien, without the consent of the Minister of Lands. An instrument executed in breach of the Act is not void, but the estate or interest of the alien may be forfeited to the Crown by order of the Supreme Court.

Licensing.—No. 24 forbids the consumption of liquor at a dance held on public premises unless a permit authorizing such consumption has been obtained.

Permits may be granted by Special Magistrates at their discretion. A permit does not authorize the consumption of liquor at a dance by any person under twenty-one years of age. It is made an offence for a person under twenty-one to consume liquor in public premises while a dance is in progress. The consumption of liquor in public places within three hundred yards of public premises during the progress of a dance therein is also forbidden.

The term " public premises " means premises other than a dwelling-house ordinarily used for residential purposes, and other than land adjoining and occupied with a dwelling-house so used.

Lottery and Gaming.—No. 42 provides for the reopening of registered betting

premises (commonly known as betting shops) which have been closed during the war. Certain limitations, however, are imposed on the Betting Control Board in relation to this matter.

First, the board is required only to open such premises as it considers to be reasonably necessary in the public interest. Secondly, no premises can be opened in the metropolitan area of Adelaide. Thirdly, any proposed betting premises must be approved by the district or municipal council in whose area they are situated. Fourthly, before registering any premises the board must conduct a public enquiry in the locality concerned.

The Act also forbids persons under 21 to be in the betting ring on a race course or within six feet of any bookmaker in a betting ring.

Mental Defectives.—No. 14 provides that a member of the police force may apprehend a person and convey him to a mental hospital, receiving house or receiving ward, in any case where the proper medical and other certificates have been given for the reception of the patient into the institution in question.

Metropolitan and Export Abattoirs.—No. 43 alters the composition of the Metropolitan and Export Abattoirs Board. Under the previous law the board consisted of a chairman, three " industry " representatives and three consumers' representatives. Under the Act of 1945, there will be only one consumers' representative and five industry representatives. One of the industry representatives will be chosen from persons nominated by the Australian Meat Industry Employees Union.

Mining.—The Minister of Mines by No. 15 may require a person to whom a mining lease is intended to be granted, to deposit with him a bond of at least £1,000 conditioned upon the due observance of the terms of the lease. This provision was inserted principally with the object of ensuring compliance with the terms and conditions of mining leases authorizing the mining of uranium and thorium.

The Act also contains a number of clauses dealing specifically with uranium and thorium. It declares that all uranium and thorium in its natural condition in the State is the property of the Crown, and that a special mining lease which authorizes a lessee to mine for uranium or thorium may provide that all uranium and thorium won by the lessee is to be the property of the Crown. Every person who discovers any uranium or thorium must forthwith report the discovery to the Minister. No person will be allowed to dispose of uranium or thorium unless he has a licence from the Minister authorizing him to do so ; and the Minister is empowered to require any person who has uranium or thorium in his possession otherwise than in accordance with a licence, to deliver the mineral to the Minister. The Minister may declare that any uranium or thorium so delivered to him shall be the property of the Crown.

Probation of Offenders.—No. 25 deals with the conditions which may be inserted in the bonds under which convicted persons are released pursuant to the Offenders Probation Act. A defect in the previous law was that there was no power to require the defendant to reside in an institution for treatment. The new Act provides that the court may insert in a bond conditions as to any matters which the court considers necessary or desirable for preventing a repetition of the offence or the commission of other offences.

Physiotherapists.—No. 38 provides for the registration of physiotherapists. Physiotherapy is defined as being " the external application to the human body for the purpose of curing or alleviating any abnormal condition thereof, of manipulation, massage, muscle re-education, electricity, heat, light or any proclaimed treatment."

The basic scheme of the Act is that no person can practise physiotherapy unless he is registered under the Act, nor can an unregistered person use the title masseur, physiotherapist, physiotherapeutist, physical therapist, or therapeutist, or hold himself out as being registered or as being competent or willing to

practise or administer physiotherapy. Provision is made for registering those persons who have been in practice as physiotherapists before the commencement of the Act, by virtue solely of their experience. In future, however, persons will not be entitled to be registered unless they have the prescribed training and academic qualifications. The administration of the Act is entrusted to a Board to be known as the Physiotherapists Board on which the Government, the medical profession and the physiotherapists will be represented.

Public Service.—No. 12 provides that the increase in the annual recreation leave of public servants from two weeks to three weeks shall come into force as from July 1, 1945.

Real Property.—No. 39 provides that where a person has been in possession of registered land for such a period as would, under the general law, confer on him a possessory title to unregistered land, he may apply to the Registrar General for the issue of a certificate of title. Every application will be advertised and if no claim to the land is received from the registered proprietor or some person claiming through him, the Registrar General may issue a certificate to the person in possession. Upon the issue of a certificate the old certificate will be cancelled and the estate and interest of the registered proprietor named therein will cease and determine. Thus adverse possession of registered land will be recognized to the extent that it will confer on a person with the necessary length of possession a claim to apply for a certificate of title. If, however, the registered proprietor of the land or a person claiming through him is in existence and makes a claim to the land, no length of adverse possession will confer on the possessor a right to a title.

The Act also empowers the Registrar General of Deeds to correct a certificate of title when the boundaries, area or position of the land described in the certificate differ from the boundaries, area or position of the land actually and bona fide occupied by the registered proprietor as being the land included in the certificate, or if the description of the land in the certificate is erroneous or imperfect on the face of it.

Real Property (Registration of Titles).—No. 6 provides for bringing under the Torrens system of registration all land in the State within five years after the commencement of the Act or as soon thereafter as may be. The Registrar General is required to take steps to bring the land under the registration system without applications from owners. The titles issued to land so brought under the system will be of two kinds, namely, ordinary and limited. An ordinary certificate of title will be issued where the title of the person to whom it is issued is perfect. In other cases the certificate will be a limited certificate. At the expiration of twelve years after the issue of a limited certificate the Registrar General must enquire whether any person is in possession of the land adversely to the title of the registered proprietor named in the limited certificate. If no person is so in possession the Registrar General may issue an ordinary certificate. So long as a certificate remains limited, possessory titles to the land may be recognized and a person with the necessary length of possession may apply for the issue of an ordinary certificate based on such possession.

Road Traffic.—No. 40 enables motor tractors used in connection with farms to be driven for certain purposes without registration, and also empowers the Registrar of Motor Vehicles to grant permits for the driving of mobile dam-sinking machinery without registration. The Act also provides that where a motor vehicle has been registered at a reduced fee under a registration allowing restricted use of the vehicle, such registration may be converted into an unrestricted registration upon payment of the balance of the fee.

The Act also reduces the fee for a driver's licence for an electrically or a mechanically propelled electric chair from 10/– to 1/–.

Any motor vehicle with a left hand drive is required to be fitted with a mechanical or electrical device for giving road signals.

Finally, the Act provides that the signal for slowing down and stopping vehicles will be to raise the forearm in a vertical position. The signal for this purpose formerly was to hold out the arm in a horizontal position, moving the hand slowly up and down.

The Savings Bank of South Australia.—No. 27 provides that the Savings Bank of South Australia will hold all its real and personal property for and on account of the Crown. It is considered that the effect of this Act is to make the Savings Bank an agency of the Crown, and therefore to exempt it from the provisions of the Banking Act of the Commonwealth. The Act also provides definitely that the Treasurer guarantees the repayment of depositors' funds. The previous provision was to the effect that the Treasurer had power to make good any default of the Bank in repaying depositors' funds, but was not obliged to do so.

Sharebrokers.—No. 11 provides that every sharebroker is to keep a trust account at a bank and pay into it all money received from clients for the purchase of securities, before the securities are delivered to the broker, and all moneys which are received from the sale of securities on account of a client and are not paid to the client within three days.

The money in a broker's trust account is available only for payment to the clients entitled thereto, and cannot be used to pay debts or liabilities of the broker. Brokers are required to keep proper books of account and to have them audited annually.

Soil Conservation.—No. 44 provides for the constitution of soil conservation districts and soil conservation boards. A soil conservation district may be constituted on the petition of three-fifths of the occupiers of land in any area, and when such a district is constituted the Governor is required to appoint a district soil conservation board for it. Every board will consist of not less than three and not more than seven members and one member of every board is to be nominated by the members of the municipal and district councils within the board's area. The main function of soil conservation boards is to make soil conservation orders. Soil conservation orders may order all or any of the following things: (*a*) that a person adopt or refrain from adopting any specified agricultural or pastoral methods or practices ; (*b*) that a person refrain from clearing any specified land ; (*c*) that a person take any specified action for preventing the erosion, drift or movement of soil, sand or water on or from any specified land ; (*d*) that the cost of complying with any order be apportioned between any persons interested in the land affected ; and (*e*) that part of the cost of complying with the obligations imposed by the order shall be borne by the person for whose benefit the order is made.

Soil conservation orders will be provisional in the first instance and subject to confirmation by the central soil conservation committee. Orders may be made binding on the successors in title of the persons against whom they are made ; and rights conferred on a person by an order will pass to his successors in title. A number of ancillary provisions for securing the enforcement of soil conservation orders are enacted.

The Act also provides that Crown agreements and Crown leases shall in future contain such terms, covenants and conditions as the Minister of Lands approves, for restricting the number of stock to be depastured on the land.

Stamp Duties.—No. 32 exempts from stamp duty, conveyances, transfers and mortgages entered into for the purpose of enabling Servicemen, ex-Servicemen, and persons who served as seamen during the war, and the widows of such persons, to obtain homes.

War Service Land Settlement Agreement.—No. 33 ratifies the agreement entered into between the Commonwealth and the State respecting the settlement of ex-Service men on the land.

Vermin.—In addition to the existing liability to destroy vermin, that is,

rabbits, wild dogs, and foxes, upon their land, owners and occupiers of land are, by No. 13, obliged to destroy rabbit burrows on their land and upon half of the adjoining roads.

The penalty for introducing vermin into Kangaroo Island or any other islands on the coast of the State is increased from £100 to £500, and in relation to these islands hares will be regarded as vermin.

5. TASMANIA

[*Contributed by* R. G. Osborne, Esq., *Parliamentary Draftsman.*]

1944

The legislation passed in 1944 includes Acts of the latter part of the Sessions 7 and 7 & 8 Geo. VI (Nos. 70–105) and also of the former part of the Session 8 and 8 & 9 Geo. VI (Nos. 1–39). Of the Acts passed 16 were largely financial, 12 local and 25 contained only administrative amendments of little general interest. The remaining legislation covered such diverse topics as social services (chiefly health and education, which have in recent years become the principal social services under the control of the State) ; the co-ordination of surveys of land ; the establishment of an aluminium industry ; water, sewerage and drainage services ; the provision of pensions for coal miners ; town and country planning ; the provision of roads, bridges, and aerodromes ; the production of electricity by water power ; and mining. Some of the legislation reflects the existence of the war, but most of it is more immediately concerned with problems of State development, especially industrial development, which is of growing importance. There are some interesting examples of co-operation in legislation and administration between the Commonwealth and the States.

Hospitals.—Act No. 71 authorizes the Minister for Health to enter into an agreement with any local (i.e. municipal) authority and with the board or managing authority of any public hospital for the provision of free hospital services in that hospital. The local authority is to contribute such sum as may be agreed upon towards the cost of the provision of the free hospital services, which are to be made available to all persons residing within the city or municipality in respect of which the agreement is made. No agreement is to be made by a local authority under this provision without public notification, and ratepayers may require a poll to be taken to determine whether the local authority is to enter into the agreement. This statute, although brief, represents an important extension of the provision of public health services by the State in co-operation with local authorities.

Constitution.—Act No. 74 provides that the provisions of the Constitution Act, 1934, relating to the disqualification of holders of " offices of profit " from sitting and voting in Parliament shall not extend to persons employed in the Public Service of the State, or by any business or undertaking carried on by any body or authority on behalf of the State. Leave may be granted to State employees to enable them to contest a Parliamentary election and if elected they automatically cease to hold their public office. This amendment results in a considerable relaxation of the constitutional rule as to offices of profit, but it may be noted that similar provision has been made in the States of New South Wales and Victoria. In practice it means that State employees may contest Parliamentary elections without resigning.

Bush Fires.—Act No. 75, which prohibits the lighting of fires within one-quarter of a mile of forestry plantations, is designed to improve the effectiveness of the bush fire prevention legislation in respect of extensive areas which are being re-planted by the Forestry Department.

Places of Public Entertainment.—Act No. 79 prohibits the holding or conducting of any indoor public entertainment on Christmas Day or Good Friday.

Bank Holidays.—Act No. 81 declares that there shall be an additional Bank Holiday on the first Monday in March, which shall be known as "Eight Hours Day." This apparently simple amendment is of some general industrial importance.

Survey-Co-ordination.—The object of Act No. 86 is to provide for the establishment in the Department of Lands and Surveys of a central plan office and register for the registration of surveys of land and information relating to such surveys, and generally to provide for the co-ordination of surveys in the State. All public authorities are required to compile and forward to the Surveyor-General a list of existing plans, and to make regular returns of all plans prepared after the establishment of the central plan office. Extensive powers are given to the Surveyor-General in connection with the establishment of the central plan register and the establishment of permanent survey marks, to which any survey may be required to be connected. The Surveyor-General is also required to take such steps as may be expedient for avoiding unnecessary duplication of surveys. This legislation, which is similar to legislation in force in other States of the Commonwealth, is of special significance in relation to the registration of titles to land, and to the town and country planning legislation referred to later in this summary.

Railway Maintenance (War-time).—As the title indicates, Act No. 87 provides for the establishment of a special fund to be applied when circumstances permit for the purpose of meeting the cost of maintenance, renewals and replacements in respect of the Government Railways which had been deferred owing to circumstances connected with the war.

Homes.—The urgency of the housing shortage is reflected in Act No. 89, which provides for the compulsory acquisition of land for the provision of homes, and authorizes the Minister to enter into an arrangement with the Commonwealth War Housing Trust for the provision of war-time housing.

Shipbuilding Agreement.—Act No. 91 ratifies an agreement between the Commonwealth and State Governments with respect to the construction and repair of ships for the Commonwealth. This is a war-time measure.

Aluminium Industry Agreement.—Act No. 93 ratifies an agreement between the Commonwealth and State Governments with respect to the production of aluminium for the purposes of defence. The agreement and the Aluminium Industry Act, 1944, of the Commonwealth, passed in pursuance of the agreement, provide for the establishment of the Australian Aluminium Production Commission, to be appointed by the Commonwealth and State Governments respectively, which is required "with all possible expedition in order to promote the defence of the Commonwealth" to do all such acts and things as are necessary for the production of ingot aluminium. The works of the Commission are to be established in Tasmania, and supplies of electric power are to be made available by the Hydro-Electric Commission of the State. The establishment of the Aluminium Industry Commission is an interesting experiment in Commonwealth and State co-operation for the purpose of meeting defence requirements. From the point of view of the State, the establishment of the Commission is also of considerable significance for its bearing on industrial development and the effective utilization of the State's great resources of hydro-electric power.

Water Sewerage and Drainage.—Act No. 96 provides for the constitution of a Board with extensive powers in connection with the regulation, control and supervision of works constructed by local (i.e. municipal) authorities for the supply of water and for the provision of irrigation, sewerage and drainage facilities. The Board is authorized to recommend the payment of subsidies to local authorities for the purpose of assisting them in the construction of such works.

Miners' Pensions.—The Act No. 98, which was passed in pursuance of an agreement between the States for the introduction of uniform legislation on the

subject, provides for a contributory system of pensions to coal miners upon retirement or incapacity. Upon the expiration of twelve months after the termination of hostilities in the war in which His Majesty was engaged when the Act came into force all coal miners must retire upon reaching the age of sixty years. The pension and other benefits are in accordance with the scale provided for the uniform scheme agreed to by all States. The coal mining industry, though of growing importance, is not of very great significance in the economy of the State.

Town and Country Planning.—Act No. 99 provides for the appointment of a Commissioner for Town and Country Planning with power to require local authorities to prepare development and planning schemes in respect of their areas. All planning schemes are to be submitted to the Commissioner for approval, and elaborate provisions are made for the conditions under which approval may be given and for the making of objections to any scheme. Objections are to be submitted to the Commissioner, whose determination is final except in so far as an appeal may be brought to a judge. Upon the hearing of an appeal the judge is to make such determination as he thinks just. The Legislature is completely silent as to the principles, if any, which are to guide the court in making such a determination. This appears to be an instance of the class of legislation referred to in the following terms by Dixon J. of the High Court of Australia in *Swan Hill Corporation* v. *Bradbury* (1937) 56 C.L.R. 746 at 757:—

> "The reason for leaving the ambit of the discretion undefined may be that legislative foresight cannot trust itself to formulate in advance standards that will prove apt and sufficient in all the infinite variety of facts which may present themselves. On the other hand, it may be because no general principles or policy for governing the particular matter it is desired to control are discoverable, or, if discovered, command general agreement."

It may also be considered by some to be an instance of the failure of the Legislature to have regard to what Lord Greene, M.R., has called "the functional capacity of the judicial machine." When the town planning scheme has been finally approved it is the duty of the local authority to give effect to and to enforce the observance of the requirements of the scheme within the area affected by it. Provision is made for the compensation of persons injuriously affected by the operation of the provisions of the Act, which is also to be determined by the Commissioner, subject to appeal in general terms to a judge. The Act also contains provisions which are common form in legislation of this kind with respect to betterment increase, which may be claimed by a local authority and applied for the purpose of a betterment fund. The Act contains many miscellaneous provisions of which the most important is, perhaps, the requirement that all sub-division plans submitted to a local authority must be approved by the Commissioner, and are not to be passed by the local authority without his approval.

Education.—Act No. 3 provides for the establishment of a Schools Board of Tasmania, representative of the University of Tasmania, the Education Department, and the Head Masters and Head Mistresses of Public Schools, with wide powers in connection with the granting of school certificates. The intention of the legislation is to substitute for the conventional University Leaving Certificate examination a more modern system of determining qualifications for school leaving certificates without regard to the requirements of University entrance.

Roads and Jetties.—The object of Act No. 4 is to provide for a new classification of roads throughout the State, and to distribute the financial responsibility for the construction and maintenance of roads between the Transport Commission, which is the State road authority, and the local authorities. Roads are divided into State highways, subsidiary roads, and country roads and subsidiary roads are to be sub-classified as main roads, secondary roads, developmental roads and tourist roads. The Transport Commission is to be responsible for the maintenance of

State highways, and local authorities are to contribute to the maintenance of subsidiary roads out of road rates. Local authorities are to be responsible for the maintenance of country roads, but the Transport Commission will contribute in suitable cases towards the cost of maintenance. The Act also authorizes the Transport Commission to establish and maintain aerodromes.

Lands Resumption.—In addition to other machinery amendments, Act No. 12 provides for the compulsory acquisition by the Crown of land continuously unoccupied for a period of not less than twelve years in respect of which the owner has made default in respect of the payment of rates and taxes. This provision is of some importance in connection with the rehabilitation of derelict mining towns, where abandoned properties had become a serious problem.

Local Government.—Act No. 17 provides, *inter alia*, for the application to local government elections of the provisions of the Electoral Act, 1907, relating to voting by post for Parliamentary elections.

Hobart Bridge (Acquisition and Administration).—Act No. 20 provides for the acquisition by the State of the undertaking of the Hobart Bridge Company Limited, and for the determination of the amount of compensation therefor by His Honour the Chief Justice, as sole arbitrator whose decision is final. The company was authorized by an Act passed in 1936 to erect (under Government supervision) a toll bridge of a novel type across the River Derwent at Hobart, and was to obtain a franchise on the completion of the bridge. Shortly before its completion in December, 1943, the bridge was seriously damaged by a storm, and the subsequent refusal of the Government to grant a franchise under the company's Act led to a very confused situation, which could only be solved by the acquisition of the bridge by the State. The Act contains some very special provisions, one of which is that the Company will withdraw its proceedings in the Supreme Court against the Attorney-General and the Director of Public Works and the Chief Engineer, Public Works Department, in which £350,000 damages was claimed for alleged negligence and breach of statutory duty. (The Government's engineers designed and supervised the construction of the bridge.) The Government is also to acquire all the land owned by the Bridge Company's subsidiaries. The administration of the bridge is transferred to the Transport Commission. A later Act (No. 31) provides for the erection of a boom or breakwater to protect the bridge from further damage by storms.

Flood Sufferers' Relief.—Act No. 21 authorizes the Board of Management of the Agricultural Bank of Tasmania to make advances to persons engaged in rural industries in the Mersey River Valley who suffered loss through damage to crops as a result of floods in July, 1944. Legislation of this kind appears regularly in the Statute Book of this State, and is roughly parallel to the drought relief legislation of other States.

Hydro-Electric Commission.—Act No. 22 consolidates and amends all the Acts relating to the constitution, powers and functions of the Hydro-Electric Commission, which is a statutory corporation charged with the responsibility of controlling and developing the hydro-electric power resources of the State. The State hydro-electric works, which are very extensive, were established originally by a private company in 1914 and taken over by the State during the war of 1914–18. The Commission was first constituted in 1930. It has the usual powers of a public utility corporation of this kind, and in addition has considerable powers in relation to the control of the water resources of this State and the regulation of electrical installations and appliances. The consolidating Act does not greatly alter the law on this subject, but contains, *inter alia*, some important provisions relating to the extension of electrical power facilities to rural districts. Elaborate provisions are made for the granting of subsidies by the State for rural extensions.

Mining.—In addition to a large number of machinery amendments, Act No. 24 contains some important alterations in the law relating to mining. A new section is inserted in the principal Act of 1929 authorizing the Government to prohibit the

taking of any mining product from any specified land during a specified period, or alternatively to impose conditions and restrictions on the taking of any mining product. The object of this provision is to authorize the reservation of particular areas and minerals from exploitation. The provisions of the principal Act relating to the issue of prospectors' licences and miners' rights are revised, and additional safeguards against contravention of the conditions under which these licences and rights were issued are enacted. Substantial alterations are made in the law with respect to mining on private lands (i.e. land other than Crown land), the most important of which is the repeal of s. 77 of the principal Act which provides that, where the owner of land is entitled to the mining products thereon under the terms of the Crown grant, royalties are to be paid by the holder of any mining leases issued in respect of the minerals won from the land. Under the Crown Lands Acts it is provided that no grant of Crown land made after January 1, 1912, is to convey any property in minerals in the absence of special provision. Crown grants of land before 1893 did not in general provide for the reservation of minerals and there are variations in respect of the form of grants at various periods. This Act also requires the owner of any land who engages in mining operations thereon to apply for a mining lease, but no rent is payable so long as the owner remains the lessee. Further provisions are enacted in respect of the taking and diverting of water for mining purposes, and extensive powers are given to the Secretary for Mines. Additional powers are conferred upon the Minister with respect to the compulsory acquisition of private land for mining purposes, and for the disposal of land so acquired, and additional and stringent provisions are included for the revocation of leases and licences in the case of failure to comply with covenants.

Municipal Employees' Assurance.—Act No. 35 provides for the establishment of a scheme of subsidized endowment life assurance for employees of local authorities.

Financial Agreement (Variation).—Act No. 37 ratifies the agreement made between the Commonwealth and States with respect to the amendment of the Financial Agreement of December 12, 1927. The amending agreement, which has been ratified by the Commonwealth and all State Parliaments in accordance with the Commonwealth Constitution (s. 105A), contains elaborate provisions for the liquidation of loans raised on the security of Commonwealth Treasury Bills for the purpose of meeting the revenue deficits of the States incurred between 1927 and 1935. Opportunity is also taken to make various machinery amendments in the Agreement.

1945

The Acts passed during the year 1945 comprise 22 Acts of the Session 8 & 9 Geo. VI (Nos. 40–61) and 46 Acts of the Session of 9 and 9 & 10 Geo. VI (Nos. 1–45). Of these Acts, 10 are mainly financial, 10 local, and some 25 are amending Acts of little general significance. The legislation of this year is notable for the ratification of three important Agreements made between the Commonwealth and the State with respect to housing, land settlement of ex-Servicemen, and hospital benefits, which are major developments in co-operative measures for the joint administration by the Commonwealth and State Governments of schemes for economic and social amelioration. They are, generally speaking, beyond the constitutional powers of the Commonwealth and the financial resources of the States.

Tourist Bureau (Melbourne Office Purchase).—The importance of the tourist industry to the State is indicated by Act No. 40, which authorizes the purchase of premises in Melbourne, Victoria, for the purposes of offices for the State Tourist Bureau.

Public Health.—Act No. 44 contains important amendments of the public health laws in respect of the prevention and treatment of venereal disease, includ-

ing provisions for the compulsory examination and detention of persons suspected of suffering from venereal disease, and for treatment of patients. Drastic provisions are also included for the prohibition of advertisements of certain specified classes of medicines, appliances and instruments.

Towns.—Act No. 46 provides for the extension, by resolution of municipal councils, of the provisions of the principal Act relating to sub-divisions of land to areas outside the boundaries of a town. The object of the legislation is to prevent unrestricted development of areas which are not yet constituted as towns.

Wages Boards.—Act No. 48 increases the number of statutory holidays which may be provided for in determinations of wages boards.

Workers' (Occupational Diseases) Relief Fund.—Act No. 51 extends the schedule of diseases in respect of which the benefits of the legislation apply to the "sequelæ of lead poisoning."

Australian Titan Products.—Act No. 54 is an Act to confer certain rights in respect of the taking and diverting of water, and the construction of pipes and channels and of effluent drains, on a company which proposes to establish an important industry near the town of Burnie. This legislation is of some importance in relation to the decentralization of industry.

Justices Procedure.—Act No. 56 incorporates in the principal Act the provisions of the Money Payments (Justices Procedure) Act, 1935 (25 & 26 Geo. V c. 46), with respect to the limitation of the powers of justices to impose sentences of imprisonment in default of payment of fines.

Electoral.—The object of Act No. 57 is to insert in the principal Act provisions, similar to those in the Commonwealth legislation, requiring the signing of all "electoral matter," including articles, reports, letters, or other matter commenting upon any candidate or political party, or the issues being submitted to the electors at an election. The true name and address of the author of every such article, etc., must be disclosed, and any newspaper editor or proprietor who permits, in any newspaper which he edits or owns, the publication of any unsigned article, etc., is guilty of an offence. The legislation applies also to the broadcasting of any announcement or other matter commenting upon any candidate, political party, or issues before the electors at an election. An interesting addition to the provisions of the Commonwealth legislation is an enactment that nothing in the Act is to be deemed to require any article, etc., which is printed in a newspaper to be signed by the author, if the author is a person employed by the proprietor of the newspaper and informs the proprietor that he objects, on conscientious grounds, to signing the article. In this case the article must be signed by the editor or proprietor. The object of this provision is to relieve working journalists of the necessity of signing articles written by direction of the proprietor of the newspaper and not representing their own views.

Textile Products (Description).—Act No. 59, which was passed in pursuance of an agreement between the States for uniform legislation on this subject, contains somewhat elaborate requirements for the application to every textile product of a label containing a description of the product, including, in particular, a statement showing the percentage of wool contained in the product. The word "wool" or any word derived from the word "wool" is not to be used in the description to describe, or to form part of the description of, any fibre which is not wool, but if a textile product contains at least ninety-five per centum of virgin wool, it is sufficient if the product is described as "wool goods," "wool products," or "all wool," or "pure wool." The legislation is of some importance in connection with the campaign which is sponsored by all Australian Governments to promote the use of wool.

Marine.—Act No. 5 extends the powers of marine boards and harbour trusts by including, among other general provisions, authority to take measures for the preservation of life and property, and the prevention of accidents resulting

from the use of vessels, including vessels used as pleasure yachts, and for the licensing of pleasure yachts, etc.

Cape Barren Island Reserve.—Act No. 14 provides for the management and control of the Cape Barren Island Reserve, which was established in 1912 as a Reserve for half-caste aboriginals. The Act of 1912 is repealed and different provision made for the administration of the Reserve. Careful provisions are made for the granting of leases to residents on the Reserve at the commencement of the Act in respect of blocks of land occupied by them, and for the conversion of such leases into freehold upon compliance with the covenants and conditions contained in the leases relating to the cultivation and improvement of the land. The object is to encourage the residents of the Reserve to work their properties more effectively, and ultimately to make it possible to abolish the Reserve as a closed area. Assistance may be afforded to residents in the form of provision of fencing and building material, agricultural implements, seed, fertilizers and live-stock. The sale or possession of liquor in the Reserve is prohibited under heavy penalties and elaborate provisions are made to prevent the bringing of liquor on to the Reserve.

Fire Brigades.—Act No. 15 consolidates, with certain amendments, the law relating to the constitution and powers of Fire Brigades and Fire Brigade Boards, and provides in addition for the establishment of a Fire Brigades Commission, which is to be representative of the boards and the Government, and to discharge important functions in connection with the extension of fire brigade services throughout the State, the standardization of fire brigade equipment, training of officers of brigades, formation of new fire brigades, and amalgamation of existing brigades. The Commission is also to supervise the expenditure of Fire Brigade Boards.

Education.—Act No. 16 contains among other machinery amendments, new provisions designed to secure the cleanliness, health, etc., of school children. In addition to the usual requirements with respect to voluntary inspection and treatment of children by school medical officers and nurses, provision is made for the compulsory treatment of children suffering from physical defects. A school medical officer may give notice to the parent of any child who is suffering from any such defect that the defect requires medical or surgical attention. Any parent who fails or neglects on being required to secure or provide medical or surgical attention for the child shall, if the failure or neglect endangers or is likely to endanger the life or health of the child, be guilty of an offence, but no prosecution is to be instituted except with the approval of the Minister and until the child has been examined by the school medical officer in consultation with another medical practitioner nominated by the parent of the child, or by the Minister if the parent refuses to nominate a practitioner for that purpose.

Florentine Valley Paper Industry.—The object of Act No. 17 is to extend the period within which the holder of the extensive paper-pulp concession under the principal Act (Australian Newsprint Mills Proprietary Limited) is required by that Act to construct a railway into the concession area. The activities of the company are of great importance in connection with the production of newsprint in Australia, and the company has cutting rights over a considerable area of forest.

Shops.—Act No. 20 alters the closing hours of butchers' shops and chemists' shops, and extends the provisions with respect to Saturday closing to hairdressers' and tobacconists' shops.

Crown Lands.—Among various machinery amendments, Act No. 22 contains a provision of some general importance under which every public highway not already vested in the Crown or any municipality is to be deemed to have been vested in the Crown.

Registration of Births and Deaths.—Act No. 23 provides, among other things, that a magistrate may order the birth of any person to be registered at any time after such birth in the manner to be directed in the order, and (where a birth has

been registered without any name) may provide for the addition to the register of any name in any case where he is satisfied that the name had been given to a person in baptism, or is the name by which the person has been commonly known since birth.

Fruitgrowers' Defence Fund.—Act No. 25, which was passed for the purpose of transferring certain securities and moneys from trustees appointed by certain fruitgrowers to the State Fruit Board, declares that the board shall hold such securities and moneys, and apply the same for the purpose of defraying such legal or other expenses as the board may consider it advisable to incur in the interests of the fruit industry of the State, on behalf of any fruitgrower, in relation to any alleged negligent carriage of fruit to overseas markets.

Mount Bischoff Tin Mine (Agreement).—Act No. 30 authorizes the Government of the State to enter into an agreement with the Commonwealth Government for the carrying on as a joint undertaking of the respective Governments of mining operations at the Mount Bischoff Tin Mine, and for the carrying out of a programme of development and reconstruction of the existing mine. This mine, which was for many years of great importance as a tin producer, was during the war taken over by the Commonwealth in an endeavour to increase the production of tin urgently required for national purposes, and it is hoped to re-establish it on an economic basis.

Tourist Accommodation Loans.—Act No. 31 authorizes the granting of loans to the owners of hotels and guest houses for the purpose of enabling them to extend or improve accommodation for tourists.

Commonwealth and State Hospital Benefits Agreement.—Act No. 33 authorizes the execution by the Premier, on behalf of the State, of an agreement with the Commonwealth in relation to the provision of hospital benefits. The Commonwealth will make to the State grants of financial assistance in respect of public and non-public wards in public hospitals, and the State is to ensure that no means test is to be imposed in respect of admission to public wards, and that no fees are charged in respect to beds in public wards in public hospitals. The charges payable in respect of beds in non-public wards are to be reduced by the amount of what is described as the "Commonwealth Hospital Benefit Rate for Non-Public Wards."

Bank Holidays.—Act No. 35 provides for the closing of banks on Saturdays in the city of Hobart and the municipality of Glenorchy, which adjoins it.

Commonwealth and State War Service Land Settlement Agreement.—Act No. 36 ratifies an agreement made between the Governments of the Commonwealth and State with respect to land settlement of ex-Servicemen. Land settlement under the scheme is to be carried out in accordance with the following principles:—

(*a*) Settlement is to be undertaken only where economic prospects for the production concerned are reasonably sound, and the number of eligible persons to be settled is to be determined primarily by opportunities for settlement and not by the number of applicants.

(*b*) Applicants are not to be selected as settlers unless a competent authority is satisfied as to their eligibility, suitability, and qualifications for settlement under the scheme and their experience of farm work.

(*c*) Holdings are to be sufficient in size to enable settlers to operate efficiently and to earn a reasonable labour income.

(*d*) An eligible person deemed suitable for settlement is not to be precluded from settlement by reason only of lack of capital, but a settler will be expected to invest in the holding of such proportion of his own financial or other resources as considered reasonable in the circumstances by the appropriate State authority.

(*e*) Adequate guidance and technical advice are to be made available to settlers through agricultural extension services.

The State is to administer the scheme on behalf of the Commonwealth, and the Commonwealth is to provide the capital moneys required for the purpose of acquiring, developing and improving land for settlement and part of the cost of administration. Detailed provisions are made for the approval of proposals for settlement under the scheme, the acquisition and development of land, the eligibility of applicants, and the financial assistance to be granted to successful applicants for land settlement. The holdings of the settlers are to be allotted on the basis of perpetual leasehold tenure. Consequential provision is made in the ratifying Act for the administration of the scheme on behalf of the State by the Closer Settlement Board, and the Minister is empowered to reserve substantial areas for soldier land settlement. Consequential provision is also made by the Closer Settlement Act (No. 2) 1945 (No. 38).

Commonwealth and State Housing Agreement.—Act No. 39 ratifies an important agreement made between the Commonwealth and the States with respect to the provision of housing and the payment of subsidies towards rentals, and for the sharing of the cost between the Commonwealth and the State.

Marketing of Primary Products.—Act No. 41 provides for the constitution of boards for the marketing of specified classes of products defined as including any product (other than wool or livestock) of agriculture, horticulture, grazing, poultry-farming, bee-keeping, or fishing operations, and any dairy produce (including bacon and pork), and any article of commerce prepared (otherwise than by any process of manufacture) from such operations, but not including hops or meat (other than bacon or pork). The legislation is in the usual form adopted for the establishment of what are sometimes described as " Producer Control Marketing Boards " in Australia, and is similar to legislation in force in Queensland, New South Wales and Victoria. In addition to the usual provisions for the proclamation of commodities and the establishment of marketing boards upon the petition of producers, and the vesting in such boards of the commodity for the purpose of marketing, the Act contains important provisions, which are not found in the legislation of other States, relating to the fixation of prices of commodities, and the licensing of producers, and the limitation of production of commodities.

6. VICTORIA

[*Contributed by* S. H. Z. Woinarski, Esq., M.A., LL.D.]

There were two Parliaments of the State of Victoria during the year 1945. The Thirty-fifth Parliament began the legislative year with its Second Session and continued until a general election brought about a change of government with the return to power of the Labour Party. The new government held the First Session of the Thirty-sixth Parliament in the closing months of the year. Accordingly this review deals with the Acts passed in 1945 by the two Parliaments. The earlier Parliament passed 24 Acts (Nos. 5059–5082) and the present Parliament 26 (Nos. 5083–5108), a total of 50 Acts, which shows a decline in legislative activity from previous years and is to be explained by the events of a disturbed year of politics. Ten Acts are dealt with below. These will be found to relate to miscellaneous subjects, but a number illustrate an attempt to grapple with problems which have become as much problems in Victoria as in other places within the British Commonwealth and elsewhere.

Supreme Court (Judges).—No. 5060 is a short Act which in effect increases the strength of the Victorian Supreme Court from a Chief Justice and five puisne justices to a Chief Justice and six puisnes. Behind this bare effect, however, there lies the story of the Court's growth and development. The Supreme Court of the Colony of Victoria, as it first was, was created by an Act of the Victorian Parliament in 1852. This Act established the Court consisting of not more than three judges of whom one was to be styled Chief Justice, and under its provisions

a Chief Justice and one puisne were appointed in January, 1852. Six months later another puisne was appointed, bringing the Court to its full strength of three. In 1856 the appointment of a fourth judge was authorized, and by a rearrangement of business the equitable, insolvency and ecclesiastical jurisdiction was vested in one judge. In 1872 provision was made for the appointment of a fifth judge, and in 1885, after the principles of the English Judicature Acts had been adopted in the State in 1883, the personnel of the Bench was further increased to six. That figure remained until the present Act, when pressure of business compelled the Legislature to authorize the appointment of a seventh. This unadorned summary may serve to show the framework on which the business of the Supreme Court has been constantly growing, and it is left for the experienced eyes of practising lawyers to discern the pattern which the growth has taken in this State following much the same lines as in other common law countries.

Unclaimed Moneys.—No. 5064 provides for the payment into consolidated revenue of money and securities lying unclaimed for fifteen years in the Supreme Court or in any County Court, and for repayment to any claimant who subsequently establishes his right to any such money or security. The policy of the Act is in line with other Acts passed in recent years whereby funds at first established for specific purposes lose their identity and are transferred to the consolidated revenue of the State. (See below Licensing Fund No. 5089.)

Agent-General.—No. 5067 simplifies and consolidates the statutory provisions relating to the administration of the office of Agent-General for Victoria in the United Kingdom. Its purpose is to foster business relations between Victoria and the United Kingdom and to encourage interest in Victoria and in its business and economic potentialities. For this reason perhaps its most important provision is that which prescribes the functions of the Agent-General in general propositions, eight in number, amongst which are the promotion of the sale of primary products of Victoria, the promotion of the sale of the products of secondary industries of Victoria and the stimulation of interest in the extension of existing and the establishment of new secondary industries in Victoria, the promotion of emigration to Victoria and the dissemination of information for the purpose of attracting tourists to Victoria.

Water.—No. 5072 is a detailed amending Act, following on the Water Act, 1944 (No. 5017), as to which see *Jour. Comp. Leg.*, Third Series, Vol. xxviii, p. 123. Its significance lies in the fact that it illustrates the increasing realization on the part of the Legislature of the need of water in the national economy, and for that reason its most important provision perhaps is that which empowers the Treasurer to advance moneys to Waterworks Authorities to meet costs incurred preparatory to the execution of works.

National Security (Repeal).—No. 5073 repeals the Victorian National Security (Emergency Powers) Acts which were passed between 1939 and 1944 to enable emergency regulations to be made in connection with the prosecution of the wars against Germany and Japan. Eight regulations, however, made under those Acts, are temporarily saved.

Emergency Housing Accommodation.—No. 5079 is aimed at alleviating the housing shortage and approaches the problem from two angles. In the first place it empowers municipal councils to grant permits for building alterations, nothwithstanding contravention of building by-laws, to allow occupation of any building as a dwelling or as an increased number of dwellings. In the second place it provides a scheme for the compulsory letting of vacant dwelling-houses. The scheme is this: Where a municipal council is satisfied that a dwelling-house has during a period of 28 days or more not been occupied or occupied only occasionally it shall cause a notice to be served on the owner requiring him to let the dwelling-house upon reasonable terms for occupation by some person to take effect within 14 days after service of the notice. If the owner fails to comply

with the requirements of the notice, the council shall forthwith notify the Minister who may let the dwelling-house to any person who he believes is of good character but so far as practicable giving priority to a member or ex-member of the Armed Forces or a dependant of such a member or ex-member. Such a letting by the Minister is deemed to be a letting by the owner and shall take effect notwithstanding any other lease, letting, or agreement to lease or let. The provisions as to compulsory letting are to continue in operation until 12 months after the cessation of hostilities.

Licensing Fund.—No. 5089 puts on a permanent basis the previous annual provision that surpluses in the Licensing Fund are to be transferred to the consolidated revenue, and its general significance may be gathered from the comment on Act No. 5064 (Unclaimed Moneys) above.

Employers and Employees.—No. 5090 is an amending Act which abolishes the doctrine of common employment and makes employers liable for damage suffered by an employee by reason of the negligence of a fellow employee in the same manner as if those employees had not been engaged in a common employment. The Act derives from New South Wales Legislation of 1926, the Workers' Compensation Act No. 15, s. 65, which in turn remounts to earlier New Zealand legislation.

Hospital Benefits.—No. 5101 authorizes and approves the execution of an agreement between the Commonwealth of Australia and the State of Victoria relating to the provision of moneys by the Commonwealth towards the maintenance of public hospitals, and eliminates payments by patients occupying beds in public wards of public hospitals. In that way the Act is part of the programme of social benefits the initiation of which has become one of the most important functions of present day legislation.

Soldier Settlement.—No. 5107 authorizes the ratification of an agreement between the Commonwealth of Australia and the state of Victoria relating to the settling on land of discharged members of the forces and so becomes part of the policy of rehabilitation of Servicemen. The Act is a lengthy one, but its scheme is to provide for the constitution of a Soldier Settlement Commission consisting of three members to administer soldier settlement, the appointment of the necessary officers and employees of the Commission and of local advisory committees, and the powers and functions of the Commission. In general those powers and functions relate to recommending that land should be set apart or acquired for the purposes of soldier settlement, and they are fortified by provisions relating to the compulsory obtaining of information, the valuation of land and the determination of disputed claims for compensation. Disputed claims for compensation are made determinable by that judicial beast of all work, the County Court judge, and his determination, strangely enough, may be made a rule of the Supreme Court and enforced accordingly. As a corollary to this part of the Act, another part sets out in general language the duties of the Commission as to the settlement of discharged Servicemen on the land and advances to such Servicemen. Another Part completes the scheme of the Act by authorizing the Governor-in-Council to make regulations relating to the detailed administration of the Act.

7. WESTERN AUSTRALIA

[It is hoped to publish the review in the next issue.]

IV. NEW ZEALAND

[It is hoped to publish the review in the next issue.]

V. WESTERN PACIFIC

1. FIJI

[*Contributed by* THE ATTORNEY-GENERAL.]

THIRTY Ordinances were enacted during the year, of which the following were the principal:—

Processions and Public Assemblies.—No. 1 provides for the regulation and control of processions and public assemblies and is a re-enactment of earlier legislation.

Law Revision.—No. 2 effects numerous minor amendments to the laws of the Colony for inclusion in the Revised Edition of the Laws which is in the course of preparation.

Matrimonial Causes (War Marriages).—No. 9 confers on the Supreme Court temporary jurisdiction to deal with certain matrimonial causes irrespective of domicile where the relevant marriage took place on or after September 3, 1939.

Pensions.—No. 13 provides for the payment of a gratuity to a female officer who retires on account of marriage.

Crown Lands.—No. 15, which replaces earlier legislation, provides for the control, administration and disposal of Crown Lands.

Charitable Trusts.—No. 18 provides for the incorporation of the trustees of charitable and certain other trusts, and for the extension of charitable trusts where it becomes impossible or impracticable to carry out the original object of the trust. To this latter end provision is made for the preparation of a scheme by the trustees and for the approval of such scheme by a Judge of the Supreme Court.

Public Hospitals.—No. 19 constitutes Boards of Visitors for Public Hospitals of which the majority of members and the chairman are to be persons outside the public service.

Rehabilitation.—No. 20 makes provision for the re-establishment in civil life of persons who have served with the Armed Forces. The Ordinance constitutes a Rehabilitation Board and generally provides the machinery for carrying into effect the rehabilitation scheme which is set out in the Schedule.

Residential Tax.—No. 23 increases the tax from 30/– to £2.

Death and Gift Duties.—No. 24 increases the rates of Estate Duty on estates of £20,000 and over.

Income Tax.—No. 25 provides:—

(*a*) for the assessment of income tax at a rate per pound of 1/3 increased by $\frac{12}{1000}$d. for every pound of chargeable income up to a maximum of 6/3 in the pound;

(*b*) for the increase of the tax on the profits of companies from 5/– to 6/3 in the pound;

(*c*) for the payment of surtax on income in excess of £1,000 on a scale rising from 1/3 in the pound to 10/– in the pound on income in excess of £30,000;

(*d*) for the taxation of income of a taxpayer accruing outside the Colony where such income is not subject to tax in the place where it accrues; and

(*e*) for securing the payment of tax in respect of persons leaving the Colony before such persons can obtain the necessary travel tickets.

Reinstatement in Civil Employment.—No. 27 gives legal sanction to the obligation of employers to reinstate former employees who left their employment to engage in war service.

Banaban (Settlement).—No 28 provides for the local government of inhabitants of Ocean Island who have recently been re-settled on Rabi Island within the Colony of Fiji.

2. GILBERT AND ELLICE ISLANDS

3. BRITISH SOLOMON ISLANDS PROTECTORATE

[It is hoped to publish the reviews in the next issue.]

4. KINGDOM OF TONGA

[*Contributed by* C. W. T. Johnson, Esq., *H.M.'s Agent and Consul.*]

Twelve laws were enacted.

Customs Duties.—No. 3 amends the Customs Duties Act, 1938, by increasing the *ad valorem* duty on imports, and also the duty on certain specific imports contained in Schedule I of the principal Act.

Education.—An amending Act (No. 4), prohibits the establishment of new schools without the consent, in writing, of the Minister of Education. Previously no such control existed, with the consequent establishment of too many schools, of varying standards, in the one locality. The purpose of the amendment is to prevent the opening of schools which, either for lack of support or other reasons, are unable to maintain reasonable standards of education.

Time.—No. 6 declares and determines standard time throughout the Kingdom.

Land Tenure.—No. 7 limits the amount of land which any one holder of an hereditary estate may lease. All land in Tonga is vested in the Crown, but certain large areas have been granted to nobles, who acquire by such grant no more than an hereditary life interest. The purpose of the amendment is to prevent the alienation, in the form of lease, of too much land by nobles, to the consequent detriment of commoners, who are entitled to small allotments, when available, on such estates.

The Land Act, 1927, is amended by No. 9 by repealing s. 61 (3) thereof. This sub-section provided that, in a certain instance, a person surrendering a life interest in a small estate or allotment might continue for five years to remove coconuts from such land.

Government.—The Government Act, 1903, is amended by No. 8 by providing that all Regulations, Rules and Orders passed by Government bodies or officers must be considered by the Parliament immediately succeeding the promulgation of such Regulation, Rule or Order. The Tongan Parliament normally sits only once a year for approximately one month, government in the intervening period being entrusted to the Queen-in-Council, Cabinet and, as the result of wartime legislation, various committees. Previously only Ordinances passed in Privy Council had to be confirmed by Parliament ; the amending Act greatly increases the authority and control of the latter body.

Prisons.—The Prisons Act, 1923, is amended by No. 10 by reducing the maximum sentence for escape from five years to two years, thereby bringing the offence within the jurisdiction of the Magistrates' Courts, instead of the Supreme Court.

Evidence.—The Evidence Act, 1926, is amended by No. 11 by providing that, in cases of rape and other sexual offences, statements made by the injured person to a third party shall only be admissible when made voluntarily.

Poll Tax.—No. 12 consolidates and amends the law relating to the payment of Poll Tax by Tongans. The collection of that tax had become involved and unsystematic, very few Tongans paying until actually brought to Court. S. 6 of the new Act provides an automatic increase of 25 per centum on tax not paid within 10½ months of becoming due. It is felt that this amendment will greatly simplify tax collection, whilst imposing no hardship on the taxpayer.

5. NEW HEBRIDES

[*Contributed by* The Resident Commissioner.]

Fourteen Joint Regulations were promulgated during the year.

No. 1 prohibited hunting and shooting. No. 2 amended the Joint Regulation

No. 16 of 1941 providing for mileage allowances for condominium officers. No. 3 repealed the Exit Permit Regulation, No. 13 of 1941. No. 4 amended the control of importation and sale of Motor Vehicles, Regulation No. 9 of 1944. No. 5 dealt with the compulsory acquisition of immovable property. No. 6 provided for the establishment, maintenance and administration of Joint Native Prisons. No. 7 amended the power of confiscation given by certain regulations. No. 8 reimposed dog-licences. No. 9 repealed war surtaxes, in certain businesses. No. 10 increased bar licence fees. No. 11 amended the fees for liquor-trading "off" licences. No. 12 extended the Traffic Regulation, No. 10 of 1934, to apply to other parts of the group than Efate. No. 13 amended the rate of Trading Licence Fees and No. 14 provided subsistence in travelling allowance.

VI. SOUTH AFRICA

1. UNION OF SOUTH AFRICA

[It is hoped to include the review in the next issue.]

2. CAPE

[*Contributed by* A. J. Pienaar, Esq., B.A., LL.B., K.C.]

The two Sessions of the Cape Provincial Council produced seventeen Ordinances. Of these three merit comment. The remainder are either the annual finance measures or the customary amendments of old Ordinances. Of the three singled out for the review one is original, viz., The Commissions Ordinance (No. 1), and one materially amends the laws relating to Education and the other is both original and amending.

Commissions.—Excepting in the Transvaal a Public Commission of Enquiry appointed by either the Union or a Provincial Government had no power to compel the attendance of witnesses, the production of documents or to take evidence on oath. Ordinance No. 30 of 1902 (Transvaal) conferred on a certain Commission the powers of the Supreme Court in order to enable it to investigate a certain public matter, and it gave general power to the Lieutenant-Governor—it was before responsible Government was granted after the Boer War—to confer on any Commission appointed by him similar powers. Since then whenever the Governor-General has appointed a Commission it has been customary to confer such powers, but these were operated only in the Transvaal. A few years ago the Government wished to obtain information in respect of the diamond mining industry and for that purpose appointed a judicial Commission. At its first sitting in Cape Town counsel for the De Beer's Diamond Mining Corporation, which has its headquarter office in the Cape, questioned the Commission's power to summon witnesses and compel answers. The Commission collapsed.

According to Ordinance No. 1 (s. 2) "Whenever any matter relating to a subject in respect of which the Provincial Council has made an Ordinance is in the opinion of the Administrator of Public Concern requiring investigation he may appoint a Commission to enquire and report." The composition of a Commission, the qualifications and remuneration of its members are then provided for. The Administrator must define its terms of reference. S. 6 then sets out in detail its powers as to witnesses, which are similar to those of a division of the Supreme Court. The sitting must be held in public, but if the public interest requires it, the chairman may order the exclusion of persons whose presence is not necessary. The Commission may appoint experts to examine documents or objects which cannot be conveniently produced. The costs of a Commission shall be paid by interested parties in such proportions as the Administrator, on the

recommendations of the Commission, may direct, but it is competent for him to order all costs to be paid out of provincial revenue.

One Commission has been appointed under this Ordinance to enquire into the administration of the affairs of the City Council of Cape Town. The Commission which sat a long time, brought out two reports of a negative character. Many expensive Counsel were engaged, then one member became ill and, as there was no provision for filling a casual vacancy, the investigation petered out, after huge costs had been incurred.

Education.—The principal Ordinance, No. 5 of 1921, again experiences an annual amendment by No. 10. Some time or other a consolidating measure will have to be considered, but for political reasons this will be delayed as long as possible. This Ordinance, while introducing certain minor alterations is notable for the following amendment to s. 305 which dealt with religious instruction in schools.

" In every school described in the preceding section (i.e. undenominational schools) except schools of non-Christian designation, religious instruction in terms of the syllabus set out in the 2nd Schedule shall be given by one or more of the teachers for periods aggregating not less than 1½ hours per week in the introductory stage and Standard I, 2½ hours per week in Standards II, III, and IV and the equivalent of two class periods per week in each of the secondary standards during school hours and as far as possible at the commencement of the school day ; provided that ' neither teacher nor pupil who has conscientious objections shall be compelled to attend.' "

The changes brought about by this new sub-section are that the length of the periods of instruction has been increased and that the syllabus has been graded according to the rise in Standards (forms) in which children are. The syllabus in the schedule has therefore been modified to provide for rising grades in the school. It is very interesting reading but not suitable for more detailed analysis in a short review.

Coloured Education.—Under the principal Education Ordinance (No. 5 of 1921) school attendance has been made compulsory for all European children between the ages of 7 and 16. Mainly for financial reasons it has not been found possible to make similar provision for coloured and native children. The purpose of No. 11 is to make imposed provision for the education of coloured children. It should be stated at the outset that for many years—long before the principal Ordinance—the law has always recognized a difference between whites and not whites. The present Ordinance is a step towards compulsory education for coloureds. It provides for the establishment of coloured Education Committees. These Committees shall be established and function in areas where the existing school boards are willing to have new coloured schools. Those Committees and school boards who continue to function in respect of coloured schools are given power to establish and maintain schools for coloureds. If a Committee or board reports that in its area sufficient and suitable school accommodation exists for all the coloured children it may recommend to the department that all children between the ages of 7 and 14 shall be compelled to attend school. The Administrator may thereupon by proclamation make attendance at school for coloured children in that area compulsory. Exemptions similar to those for Europeans are provided for. For a period of ten years the Provincial Council shall vote an amount of £100,000 annually for school buildings so as to make it possible to bring the Ordinance into operation. Education is free.

3. NATAL

[It is hoped to publish the review in the next issue.]

4. ORANGE FREE STATE

[*Contributed by* F. W. A. Gray, Esq., B.A., LL.B.]

Sixteen Ordinances were passed by the Provincial Council of the Orange Free State during the year 1945. Of these, four were financial measures, seven were Ordinances amending existing legislation and the remainder were consolidating (and amending), or new, legislation.

Education.—The compulsory education of European children in the Orange Free State was taken a step farther by Ordinance 12 in an amendment of the principal Ordinance 15 of 1930. The latter Ordinance made it the duty of the parent of every European child, who had completed his seventh year but had not completed his sixteenth year, to attend regularly a public or State-aided private school until the child should have successfully completed a course prescribed for Standard VI, or should have attained the age of sixteen years. The amending Ordinance raised the Standard to VII for the year 1946, and raises it to Standard VIII for the present year and thereafter. Certain exceptions are introduced by the new Ordinance, *inter alia,* its provisions do not apply if the child is attending regularly a private school certified as efficient in terms of the Ordinance, or is attending a recognized trade-school or technical college where the pupil follows a full-time course or has completed his fifteenth year and is lawfully apprenticed to a trade or occupation in terms of the Union Apprenticeship Act, 1922, whereby further study is compulsory. Incidentally, Standard VIII is the standard, with a course of one year, immediately preceding the Matriculation Standard. Coloured persons in the Orange Free State come in for a measure of education under Ordinance 14, the Administrator being empowered by the Ordinance to make provision, by means of regulations, for the education of coloured persons. The power is expressed to be subject to the provisions of the South Africa Act, 1909.

Native Hospital Tax.—By the imposition of a tax of two shillings and sixpence per annum, under Ordinance 13, upon every adult male native in the Orange Free State, natives in the Province are made to bear a share of the expense of free hospital services accorded to them by the Administration. This tax is in addition to the General Tax amounting to one pound per annum payable by every adult male native to Union Government funds, in respect of all services rendered to natives throughout the Union, by the Central Government.

Status.—Bloemfontein, Orange Free State, was elevated to the status of a city by Ordinance 5. Strangely enough, although under the Act of Union, Bloemfontein became the judicial capital of the Union of South Africa on the establishment of Union in 1910, it remained a town as distinct from a city. Ordinance 5 of 1945 accordingly only confers upon it its rightful civil status.

The remaining legislation of the Orange Free State Provincial Council for the year 1945 presents nothing of note.

5. TRANSVAAL

[*Contributed by* M. A. Lombard, Esq., *Provincial Secretary.*]

During the year under review twenty-one legislative measures were passed by the Provincial Council of the Transvaal and these, broadly speaking, fall within the following classes:—

Arrangement of Domestic Affairs.—Under this heading may be grouped the usual financial provisions, including funds made available for the administration of the various affairs in which the Province is concerned and the raising of funds for those purposes. Fourteen Ordinances deal with this aspect, while another Ordinance, the Delegation of Powers Ordinance, No. 20 is symptomatic of the steady expansion and growing complexity of provincial government. The latter

Ordinance in actual fact only amounts to the *de jure* recognition of a state of affairs which has been developing steadily and inexorably, namely, that the Executive Committee, entrusted with the administration of the Province, had perforce to delegate certain powers to the officials of the Province in order to be able to cope with all the demands made on provincial government and administration. In this respect it is noteworthy, however, that while extensive powers of delegation are granted, no legislative functions may be delegated.

Post-war Reconstruction.—As could only be expected the Provincial Government made provision for returning soldiers. The employment or re-employment of those who enlisted is the object of the Hospital and School Board Officials' (Military Service) No. 19 and the Teachers' Military Service Ordinance No. 16. Similar provision can be found in legislation passed by the Parliament of the Union and by the other Provinces.

A further Ordinance which is aimed at the protection of volunteers is the Motor Vehicle Amendment Ordinance No. 14, dealing with exemption from the payment of motor licence fees during the period when they were on active service and could not use their motor vehicles.

Reciprocity Arrangements between the Provinces.—Under this heading will fall the Transvaal Hospital and School Board Officials' Pensions Amendment Ordinance No. 15 and the Transvaal Teachers' Pensions Amendment Ordinance No. 17. Provision is made for the protection of the pension rights of persons who transfer from one Province to another.

Language and Education.—The Education Act (Language) Amendment Ordinance No. 5 was enacted with a view to promoting the knowledge of both official languages in the Union.

6. NORTHERN RHODESIA

[It is hoped to publish the review in the next issue.]

7. SOUTHERN RHODESIA

[*Contributed by* R. J. Morton, Esq., K.C., *Attorney-General.*]

1943

Most noticeable in this year was the war's effect in restricting Parliament's attention mainly to measures which either were temporary or made only minor amendments. Consequently, of the 28 Public Acts only 4 are likely to have lasting effect.

Matrimonial Causes.—Till this year the Roman-Dutch common law dealing with the dissolution of marriage had remained untouched. For divorce the only grounds were adultery and malicious desertion, though the courts had accepted the legal fiction that a spouse sentenced for crime to life imprisonment was guilty of malicious desertion. By making the following additional grounds for divorce Act No. 20 renders such extensive interpretation unnecessary—(*a*) incurable mental disorder for which the defendant has been under treatment for at least five years within the ten years immediately preceding the commencement of the action ; (*b*) sentence to imprisonment for life or declaration as an habitual criminal and actual detention in prison for at least five years within the ten years immediately preceding the commencement of the action ; and (*c*) such cruelty (including habitual drunkenness and mental cruelty) as makes the continuance of married life insupportable.

New or amended grounds for a decree of nullity, subject to the same safeguards as provided by s. 6 of the English Act of 1937, are non-consummation and mental defectiveness, epilepsy or venereal disease present at the time of marriage.

Though it institutes a three-year restricting period, this law differs considerably

from the English Act by applying it only to actions on the ground of malicious desertion. Old Roman-Dutch practice required two separate and distinct actions, the first for restitution of conjugal rights and the second for divorce on defendant's failure to comply with the court's order for such restitution. Though in modern practice these two steps have been combined, the courts have invariably retained the *locus pœnitentiæ* by issuing a rule nisi. On the one hand this Act limits the court's powers by prohibiting the grant of a final order of divorce on the grounds of malicious desertion unless at least three years have passed since the date of the marriage and there has been an uninterrupted period of desertion of at least six months ; on the other hand it extends the courts' powers by giving them a discretion to grant a final order without any preliminary order for restitution in any case where there has been uninterrupted desertion for three years and the defendant has received personal notice of the action.

Jurisdiction has been extended to any action brought by a wife, on the ground of desertion, where the husband was immediately before the desertion domiciled in the Colony and has since changed his domicile, and on any ground where, even if the husband has never been domiciled in the Colony, the marriage was celebrated in the Colony and the wife has resided in the Colony for at least four years immediately preceding the commencement of the action and is still so residing.

Miscellaneous new powers given to the courts include the power to make proper provision for the custody, maintenance and education of minor children, including the vesting of property of the spouses in the children under curatorship, and the power to make a maintenance order in favour of the wife even though she is the plaintiff.

Finally, on evidence, the rule in the Russell case is superseded so far as divorce proceedings only are concerned by an express provision that in such proceedings either spouse may give evidence of non-access, and the contracting of venereal disease after marriage is made *prima facie* evidence of adultery on the part of the infected spouse.

Coinage.—Till this year the Colony's silver coinage still retained a standard fineness of thirty-seven fortieths fine silver. Act No. 22 allows one-half alloy.

Municipal.—Amongst the many amendments made to the municipal law by No. 2, two are noteworthy. At municipal elections each voter will now have only as many votes as there are vacancies to be filled and may not give more than one vote to any candidate. For each municipality two auditors will be appointed, one by the council and one by the Central Government ; hitherto both auditors have been elected by the ratepayers.

Native Councils.—Taxing powers were deliberately withheld from these councils when the first enabling Act was passed in 1937. Councils have proved to be popular and on their own request Act No. 25 gives each council power to tax male adult natives residing in its area.

Elections.—No. 15 prolonged the life of the Legislative Assembly whose dissolution was due in May, 1944. But No. 24 looked forward to a possible general election under war conditions and made provision for voters on active service to exercise their franchise by recording the order of their preference for political parties instead of for individual candidates. On receiving the voting papers in the Colony the Chief Registering Officer was charged with the duty of allocating votes to the individual candidates in the appropriate constituencies. This unusual method was required because voters on service were not in compact groups but scattered all over the world throughout H.M. Forces.

Lottery.—Against the sombre background of war, No. 18 gave almost comic relief. Many and bitter are the pains and penalties which the law visits on those having lot or part in any lottery other than the State Lotteries. Yet a farm, given by its owner for the purpose, was the prize in a lottery conducted by and for the benefit of the National War Fund ; to this lottery, widely advertised and

generously supported, no common informer drew authority's averted gaze. But public registration is essential to land title, and when the winner claimed his prize the scandal was out. The Bonn Farm Act made illegality legal.

1944

THOUGH the necessities of war still occupied most of Parliament's attention, four of the twenty-three public Acts of the year looked forward to the end of the conflict.

Reinstatement in Civil Employment.—The National Service (Armed Forces) Act, 1940, which instituted conscription for general war service, contained a rigid provision similar to that in the United Kingdom Act of 1939, compelling employers to take men called up for service back into employment on terms not less favourable to them than they would have attained if they had never been called up. No. 3, in form an amending Act, substitutes much more elastic provision. The Governor is empowered to make regulations not only for the purpose of securing the reinstatement of discharged Servicemen in their former civil employment but also to enable them to establish themselves in civil employment, professions and occupations. The best feature of this provision is the power given to appoint boards to consider each individual case with delegated power to authorize departures from regulations.

Land Settlement.—Almost to the end of its period of administration the British South Africa Company genuinely believed that the land of the Colony was its own property and dealt with it as such. Soon after the decision by the Privy Council (*Re Southern Rhodesia* [1919] A.C. 211) that the unalienated land belonged to the Crown, the grant of responsible government vested this land in the Governor for the purposes of the public service. Since that time there has been no statutory restriction on the Governor's power of disposing of that part of it which lies within the European area and consequently methods of disposal were liable to change with changing Governments. Act No. 17 determines the method of alienating for farming purposes the fifteen million acres of Crown land which still remain unalienated in the European area. None of it may be sold out of hand. As a general rule it must be leased, in the first instance for seven years, to applicants recommended by the Land Settlement Board, which must be satisfied that every selected applicant genuinely intends to farm the land and has sufficient capital to develop it in accordance with the principles of good husbandry. During the initial seven years, the lessee must personally reside on the land (in the case of a company the resident manager must be a shareholder) and will be under the surveillance of the Lands Department, advised by the board. If at the end of seven years the lessee has fulfilled the stipulated conditions, which include maintenance and improvement of the fertility of the soil, he acquires a right to renewal of the lease for a further period of twenty years with the addition of an option of purchase, and thereupon all yearly rentals paid, including those paid during the first seven years, become instalments of the purchase price. The effective exercise of the option to purchase is, however, still further deferred until five years after the date of renewal, i.e., twelve years after first occupation, and from then until the end of the total period of the lease is only exercisable if the lessee has still shown himself to be a good husbandman. The title finally issued contains no restriction on further alienations.

The discharge of men from war service is also contemplated by this Act in the power given to the Minister to make, for their settlement on the land, schemes which may relax in their favour the stringent conditions outlined above.

Industrial Development.—No. 22 establishes as a corporate body the Industrial Development Commission to advise the Government on the balanced industrial development of the Colony, including such matters as the siting and co-ordination of industries and the economic policy to be pursued in regard to subsidies, protective tariffs, import and export quotas, marketing and transportation. The

Commission can undertake industrial research, can promote, or assist in financing and promoting, new industries and the expansion of existing industries and can appoint directors to represent it on the board of any industrial company ; but it has no power itself to establish and carry on any industrial undertaking. As has been usual in similar cases the Commission is for finance entirely dependent on the Treasury, whose caution is seen in two of the Act's provisions ; the Commission must so regulate its activities that it will not be required to provide an unduly large proportion of the capital which is necessary for the establishment or development of any industry carried on by private enterprise, and it cannot spend on experiments or research any money which has not been voted by Parliament expressly for those purposes.

Sugar.—Private enterprise has not yet succeeded in the job, rarely tackled, of growing sugar cane in the Colony. A free vote of the House authorized the Government to acquire all the shares in a sugar-growing company which had reached the end of its resources before its estate had reached the stage of production. Act No. 23 sets up yet another corporate body, wholly financed by the Treasury, to manage and develop the 90,000 acres of land in a remote part of the Colony which had thus been acquired for the people. In this case some of the Government controls provided by the Act are that one of the board's five members must be a Treasury official chosen by the Minister of Finance, that in the exercise of its powers the board must comply with any general or specific directions given by the Minister of Agriculture and that, except with the special approval of that Minister, the board cannot exercise any power which is not designed directly to assist it in its primary objects, which are the fullest development, consistent with economy, of the production of sugar within the Colony and the sale of that sugar at reasonable prices.

Suppression of Slave Trade.—When the Brussels Conference for the suppression of the slave trade in Africa drew up its general Act in 1890, Rhodesia had not yet been carved from darkest Africa. Laws which in some part owe their origin to that conference are usefully consolidated in No. 16, dealing with the restricted delivery to and possession by Asiatics and natives of arms and ammunition.

Offices of Profit.—Under No. 1, which closely follows 4 & 5 Geo. 6, c. 8 of the United Kingdom, a certificate by the Governor that the appointment of a member of the Legislative Assembly to an office of profit under the Crown is in the public interest prevents that member forfeiting his seat during the war period. Suspicions, traditional but still unallayed, of possible abuses must have been responsible for the provision that the number of members so exempted from disqualification must at no time exceed five.

1945

In its seventh and last Session the Parliament elected in 1939 was at last able to consider several revived Bills from which so early in its life the war had distracted its attention. The twenty-three public Acts passed in 1945 did not complete its programme and fourteen more, which will be considered in the next review, were passed early in 1946 before this Parliament was dissolved.

Of the 1945 Acts the following are worthy of note:—

Town and Country Planning.—No. 19 repealed and replaced the Town Planning Act (c. 102) which had been in force since 1933. Eight named local authorities must prepare town planning schemes in respect of all land situated within their own areas and may be authorized to include in such schemes land within a distance of five miles beyond their boundaries. Local authorities other than those named in the Act may be required by the Central Government to prepare schemes and the Central Government may also, when it deems it necessary, itself prepare schemes for any area of land, whether urban or rural. The Colony has no complete network of local government areas, and therefore for enforcing approved schemes the responsible authorities are local government bodies in the areas where

they exist and the Minister of Internal Affairs elsewhere. If the validity of a scheme is challenged on the ground that it is beyond the powers conferred by the Act, the High Court is the tribunal of the first instance. But for most other questions which may arise the Act has established a special Town Planning Court, whose decisions are final and without appeal except on questions of law, on awards of compensation and on decisions of the president as to whether a matter for decision is a matter of fact or a matter of law ; on these excepted questions an appeal lies to the High Court and beyond. The special Court consists of a president learned in the law and two lay members appointed by the Governor.

Provisions for the claiming of betterment which were included in the original Bill were all taken out during its passage through the House.

The Act also governs the establishment of new townships and the subdivision of any land whatsoever into plots below a prescribed size (now prescribed by regulation as one hundred acres). The chief new feature, so far as this Colony is concerned, is that the Minister is empowered to insist on the selling owner paying to him endowment money to be held by the Minister in trust for the endowment of any local government body which may subsequently be established for the area concerned. Here, too, from the Minister's decisions on various questions an appeal lies to the new Town Planning Court.

Industrial Conciliation.—No. 21 repeals and replaces c. 233 which had been in operation eleven years and which was in the main only an enabling Act empowering industries which wished to take advantage of it to set up their own machinery for the prevention and settlement of disputes between employers and employees. The new Act is much more coercive in appearance. The chief innovations in principle are (*a*) the powers given to the Minister to establish temporary industrial councils in any industry where employers and employees have failed to establish a council themselves ; (*b*) the extended application of compulsory arbitration, which the earlier law had only applied to local government bodies and certain of their employees, and a corresponding extension of the prohibition of strikes and lock-outs ; and (*c*) the institution of appeals to the High Court from decisions given by the Minister, which appeals are not confined to questions of law and therefore to some extent give the High Court power to give decisions on matters usually considered more suitable for an administrative tribunal. In the application of industrial agreements and awards to natives there is no essential change in principle, but safeguarding provisions have been introduced to ensure that the Minister for Native Affairs, the Chief Native Commissioner and others with peculiar knowledge of and responsibility for the native people shall be consulted before any such agreement or award is applied to native workers or their employers.

Shop Hours.—No. 20 provides a nine-hour day and a forty-five hour week as maximum hours of employment for shop assistants, who for the purposes of this Act include bartenders on licensed premises. Leave accrues to them at the rates of eighteen days for the first full year, three days for every two months thereafter and seventy-eight days on the completion of four years during which no leave has been taken. This part of the Act applies to the whole Colony, but the remainder applies only to areas under the jurisdiction of a local government authority and such other areas as may be specially declared. Hours of opening are in general also limited to forty-five a week, normally from 8 a.m. to 1 p.m. on all weekdays and from 2 p.m. to 5 p.m. from Mondays to Fridays, but the distribution of these hours may be varied in each local authority area. Seating accommodation for all assistants must be provided. Government shop inspectors may be appointed to ensure the enforcement of the Act.

Native Housing.—War-time conditions encouraged the growth of secondary industries and caused a considerable increase in the number of natives employed in them. The Land Apportionment Act, 1941, empowered local authorities to set aside land for native urban areas to provide housing accommodation ; but due

partly to the scarcity of building materials and partly to their conviction that either the Central Government or employers or both should share the expense, local authorities have been slow to use their powers. No. 14, which amends the Land Apportionment Act and which was only preparatory to the Natives (Urban Areas) Accommodation and Registration Act subsequently passed by this Parliament in 1946, gives to the Minister of Native Affairs power to compel local authorities to use their powers and, where necessary, to do the work himself and send the bill to the local authority concerned.

Hire Purchase.—No. 22, which owes much to the English Hire Purchase Act, 1938, was revived from a Bill of 1939, drafted when the plentiful supply of consumer's goods had given rise to abuses which in the present scarcity have practically disappeared. It applies to all agreements for the hire purchase of movables, with no upper limit of price as contained in the English Act. Every agreement must state the cash price, and the total purchase price under the agreement must not exceed the cash price by more than a half per cent. of the balance of the cash price remaining after deduction of the initial payment, multiplied by the number of months in which instalments under the agreement are to be paid. The hirer's liabilities on termination of the agreement by him are similar to those under the English law. If the owner terminates the agreement after the hirer has paid half the purchase price, the goods must, in the absence of mutual agreement, be sold by an auctioneer nominated by the magistrate of the district ; the settlement of account between owner and hirer is related to the proceeds of the sale by auction.

An agreement with a native hirer is invalid unless approved in writing on its face by a native commissioner, who must not approve unless he is satisfied that the hirer understands the agreement and will have a reasonable prospect of carrying out its terms. If any instalment payable under such an agreement is not paid within one month of due date, the owner must within two months of due date give notice thereof in writing to a Native Department office ; if he does not, the instalment is deemed to have been paid.

War Gratuities.—No. 2 makes gratuities to ex-Service men discharged in the Colony payable in special war gratuity certificates similar to the loan certificates normally issued through the post office. They are exempt from stamp duty and income tax, and are redeemable at any time.

VII. BRITISH INDIA AND BURMA

1. CENTRAL LEGISLATURE

[*Contributed by* R. G. C. Davison, Esq.]

The legislative output of the Centre in British India during 1945 consisted of 12 Acts, 48 Ordinances and 7 Regulations.

Acts.—In one case the Governor-General was constrained to resort to his special powers under s. 67B of the Ninth Schedule to the Government of India Act, 1935. Resort to this power was necessary for securing the enactment of the annual Finance Bill, leave to introduce which had been refused by the Assembly by its vote of March 27, 1945. The Bill became the Indian Finance Act, 1945, and made the usual annual provision to determine the rates of salt duty, postage, income tax, super tax, etc., and to continue the levy of the excess profits tax.

All the 11 Acts passed by the Legislature during the year under review were amending Acts.

Defence Services.—The Indian Army Act (8 of 1911) and the Indian Air Force Act (14 of 1932) were amended by Acts 7 and 8 of 1945 respectively. The object of the amendment is to relieve a Commanding Officer of his duties regarding the disposal of the property of a deceased or deserting person and to confer these

duties upon a Standing Committee of Adjustment. Under the previous procedure the disposal of movable property left in camp or quarters by personnel dying or deserting on active service devolved upon their Commanding Officer. It was his duty to secure all such property and to realize any pay and allowances due and he also was permitted to realize a deposit not exceeding Rs. 1,000 left by such persons in a Government Savings Bank. If a representative of the deceased gave securities for the payments of military and other debts the Commanding Officer could hand over the property to the representative. Otherwise he was to sell the property, meet the debts and hand over the surplus, if any, to the representative of the deceased. Such an onerous burden was too heavy for Commanding Officers who were engaged in operational commitments with units which were frequently on the move. Hence it was considered advisable to set up a permanent Standing Committee of Adjustment to carry out these duties. The amendment of the Indian Army Act is restricted to the estates of Indian Commissioned Officers only, whilst that of the Indian Air Force relates to all persons subject to the Act. " Military Debts " are defined in the amending Acts and since the existing limit of Rs. 1,000 permitted to be withdrawn from a bank had frequently been found insufficient to cover the debts, it is increased in the case of the Army Act to a sum not exceeding Rs. 2,000 and in the case of the Air Force Act to not exceeding Rs. 1,500.

Education.—Act 11 amends the Aligarh Muslim University Act (40 of 1920) abolishing the office of Pro-Vice-Chancellor.

Patents and Designs.—Act 9 amends the Indian Patents and Designs Act (2 of 1911) to bring it into line with the Act of 1907 in force in the United Kingdom. The defect in the Indian Act was that there were no provisions to permit an inventor to apply for a patent before he had worked out the practical details of his invention. Thus he was exposed to the risk arising from the disclosure of his invention to others at this unprotected stage. The United Kingdom Act enables an inventor to apply for a patent as soon as the idea of the invention occurs to him and allows a period of 13 months from the date of his application during which he may develop the invention practically and during which period the invention is provisionally protected. The Indian Act is amended to allow the applicant an option to file with his application a provisional specification merely describing the nature of the invention and then allowing him an interval for a specified period in which to file a complete specification of the manner of working the invention and its nature.

Company Law.—The Indian Companies Act (7 of 1913) was amended by Act 4. Sub-s. (2) of s. 282B of the 1913 Act provides that money contributed to a Provident Fund, constituted by a Company for its employees, shall be either deposited in a Post Office Savings Bank account or invested in trust securities. Certain Registrars of Joint Stock Companies had held that this provision prohibited the withdrawal of the money to his credit by an employee acting in accordance with the rules of the fund. This view was contrary to the intention of the Act and an amendment was therefore necessary to state the position unambiguously.

Welfare of Labour.—Acts 3 and 10 are measures of social legislation in the interest of employees of industrial concerns. The former amends the Factories Act (25 of 1934) and inserts a new chapter, IVA, dealing with holidays with pay. S. 49B provides that every worker who has completed a period of 12 months' continuous service in a factory shall be allowed, during the subsequent period of 12 months, holidays for a period of 10 consecutive days (or 14 days if a worker is a child). Such holidays may be accumulated subject to a maximum period and taken in the following year if they are not taken in the period during which the worker is entitled to them. Under s. 49C the worker is to be paid during the holidays at a rate equivalent to the daily average (exclusive of overtime) for the days on which he actually worked in the preceding three months. If he is

discharged before he has enjoyed the holidays or has been refused them and quits his employment before the holidays are allowed to him he is entitled to the amount payable under s. 49C in respect to such holidays.

Act 10 which amends the Mines Maternity Benefit Act (19 of 1941) was necessitated by the fact that the wartime requirement of maximum coal production in India caused Government to remove temporarily the ban on employment of women below ground. Employers were already prohibited from employing women in mines four weeks after the delivery of a child and women were already entitled to maternity benefits for four weeks before and after delivery. The removal of the ban made it imperative that the period of prohibition in the case of women working underground should be extended and the benefits should be payable for a longer period. The amending Act prohibits the employment of a woman below ground if she is likely to be delivered of a child within ten weeks or if she has been delivered of a child within the preceding twenty-six weeks. In the ten weeks following that period of twenty-six weeks the woman is not to be employed below ground for more than four hours a day unless a crèche is provided at the mine and in any case not for more than four hours at a time. In the case of women who have worked underground for a specific period the duration of the benefits is extended by other sections of the amending Act. The period of four weeks before the expected date of delivery, during which benefits are already available, is extended to ten weeks and the period of four weeks after the delivery to six weeks.

Criminal Procedure.—The Code of Criminal Procedure (V of 1898) is amended by Act 2. S. 162 of the Code, as amended by Act 18 of 1923, gives the accused in a criminal prosecution the right to call for a copy of the statement made by a prosecution witness to the police in the course of investigation, provided it has been reduced into writing. It had been held by the Oudh Chief Court in *Emperor* v. *Salik* (1937 A.L.R. Oudh, p. 201) that this section was rendered inoperative if the statements of witnesses were recorded jointly and not separately. Obviously such a joint statement could not be referred to as a statement of any particular prosecution witness since it would not be known what part of the joint statement was made by any individual witness. Similarly in *Basant Singh* v. *Emperor* (1930 A.L.R. Lahore, p. 451) the Lahore High Court had held that the trial court was correct in refusing to give the accused a copy of the statement of a witness when that statement was recorded jointly with that of another prosecution witness who was tendered for cross-examination but not actually cross-examined. The discovery of these loopholes afforded the police an opportunity to render the provisions of s. 162 nugatory. Hence the amending Act provides for the addition of a new sub-section to s. 161 of the Code directing that a police officer is to record separate statements of each person whose statement he records. S. 426 of the Code is also amended to permit a court to release on bail a person who has been sentenced to imprisonment for a bailable offence if an appeal lies and if the court is satisfied that the person sentenced intends to appeal. Under the existing law the convicted person ordinarily had to get bail from the appellate or revisional courts and to undergo trouble and expense in doing so. Furthermore, he often had to undergo some days in prison before the bail order could be secured. Under the law as amended by the 1945 Act such a person may be released on bail by the sentencing court for a period sufficient to enable him to present his appeal and obtain the orders of the appellate court and during the period of such bail the sentence of imprisonment which has been imposed is deemed to be suspended.

Miscellaneous.—The Indian Tea Control Act (8 of 1938) and the Indian Merchandise Marks Amendment Act (2 of 1941) were amended in minor details by Acts 1 and 5 of 1945 respectively. The Repealing and Amending Act (6 of 1945) effected the usual formal repeal of spent and obsolete enactments and corrected petty errors in the Statute-book. 42 Acts, 12 Ordinances and 10 Regu-

lations were wholly repealed as having become unnecessary, and spent portions of 9 other Acts, 1 Ordinance and 1 Regulation were also eliminated. Small amendments of a formal character were made in 14 Acts, 2 Ordinances and 8 Regulations.

Ordinances.—Forty-eight Ordinances were promulgated by the Governor-General in the exercise of his powers under s. 72 of the Ninth Schedule to the Government of India Act, 1935. Twenty-eight of these were amending Ordinances, one dealt with the disbandment of the Defence of India Reserve and two others with the termination of certain war risk insurance schemes. The remaining 17 were of a substantive character. Practically all the Ordinances dealt with matters arising either directly or indirectly from the war.

Defence Services.—The Defence of India Reserve Ordinance, 1945 (No. 6), constitutes the Defence of India Reserve as a reserve force of the Defence of India Corps and regularizes certain enlistments in that corps. Subsequently on the termination of hostilities with Japan the Defence of India Reserve was disbanded by Ordinance 44 and Ordinance 6 was repealed.

Extensive amphibious operations were contemplated in the final stages of the war against Japan and these involved the embarkation of Military and Air Force personnel on warships, landing craft, assault craft, etc., manned by the Navy. Persons subject to the Army Act embarked on H.M. ships or H.M. Indian ships were subject to naval discipline by virtue of an Order-in-Council dated July 13, 1942, but no similar provision was in existence to subject H.M. Indian Forces to such discipline. The Naval Discipline Ordinance, 1945 (No. 7), fills this gap and provides for the discipline of persons subject to the Indian Army Act (8 of 1911) and Indian Air Force Act (14 of 1932) when embarked on naval vessels.

The Army (Forfeiture of Emoluments) Ordinance, 1945 (No. 40), permits the forfeiture of emoluments of a person subject to the Army Act (44 & 45 Vic., c. 58) as an officer in certain cases not provided for by that Act. These cases include deserting to the enemy ; serving with the enemy or under enemy orders whilst in enemy hands or aiding the enemy ; having been taken prisoner and failing to rejoin His Majesty's Forces when it was possible to do so ; and allowing oneself to be taken prisoner owing to want of due precaution, disobedience of orders or wilful neglect of duty.

Ordinance 37 similarly amends the Indian Army Act (8 of 1911) to provide for forfeiture of pay and allowances of prisoners of war who aided the enemy whilst in enemy hands. These amendments were necessitated by the fact that the Japanese had organized a force known as the Indian National Army which was largely recruited from prisoners of war who had been captured in countries in the East occupied by Japan.

Ordinance 42 also amends the Indian Army Act (8 of 1911) and the Indian Air Force Act (14 of 1932). These amendments were necessitated by the fact that under the existing law relating to limitation for the trial of offences under these two statutes a large number of persons who joined the enemy and actually waged war against the King would have escaped trial and punishment. The Indian Army Act (8 of 1911) is also amended by a second amending Ordinance (No. 48) in order to empower the officer confirming the sentence of a court martial to commute sentences of death and transportation for life.

Control of Supplies.—The Bengal Textiles Association Ordinance, 1945 (No. 32), was promulgated to incorporate and regulate a trading corporation in the Province of Bengal for the purpose of improving the procurement and wholesale distribution of piecegoods in that Province.

The Defence of India (Third Amendment) Ordinance, 1945 (No. 35), amends the Defence of India Act (35 of 1939) primarily with a view to provide for forfeiture by executive authorities of cotton cloth and yarn in respect of which there had been an infringement of the provisions of the Cotton Cloth and Yarn Control Order.

Ordinance 43 amends the Hoarding and Profiteering Prevention Ordinance (35 of 1943) and was promulgated to make further administrative improvements in that Ordinance in the light of the experience gained of its working since its last amendment by Ordinance 53 of 1944.

Canteen Stores.—The Canteen Stores (Exemption From Local Taxation) Ordinance, 1945 (No. 5), exempts certain goods the property of the Canteen Stores Department and the Indian Red Cross Society or the St. John Ambulance Association from the payment of taxes, duties, cesses, etc., imposed by local authorities.

Essential Services.—The Essential Services (Dibru Sadiya and Colliery Branch Railways) Ordinance, 1945 (No. 8), secures the continuance in employment of certain persons employed in connection with the construction, maintenance and operation of the Dibru Sadiya Railway and the Colliery Branch Railway on the transfer to the Central Government of these railways by purchase.

Police Forces.—Ordinance 15, The Civil Affairs (Malaya) Police Force (Discipline) Ordinance, 1945, provides for the maintenance and enforcement of discipline amongst members of the Civil Affairs (Malaya) Police Force which was being raised and trained in British India for the purpose of accompanying the Allied Forces into Malaya in order to assist in maintaining public order and safety.

The Andaman and Nicobar Islands Police Force (Temporary Provisions) Ordinance, 1945 (No. 26), similarly makes temporary provisions for regulating the discipline of the Andaman and Nicobar Islands Police Force whilst it was being raised and trained in British India for use in the islands on their reoccupation. Both these Ordinances were subsequently repealed by Ordinance 1 of 1946.

Refugee Camps.—The Refugee Camps Ordinance, 1945 (No. 21), is designed to provide for and to regularize the accommodation in refugee camps of refugees entering British India from certain war areas and for the maintenance of discipline in such camps.

Definition of the "Present War."—The Present War (Definition) Ordinance, 1945 (No. 23), lays down that the expression "present war" and like expressions shall, in certain contexts, be deemed to include and always to have included a reference to the war continuing at that time with Japan.

Income Tax Exemption.—In order to conform to similar provision in the United Kingdom the War Gratuities (Income-tax Exemption) Ordinance, 1945 (No. 24), exempts war gratuities from liability to pay income tax.

Limitation.—The Limitation (War Conditions) Ordinance, 1945 (No. 33), lays down that the period of limitation prescribed by law for suits shall not run in the period during which persons instituting the suits have been detained in enemy territory by circumstances attributable to the war.

Bills of Exchange.—The Bills of Exchange Ordinance, 1945 (No. 39), provides for proof of a Bill of Exchange payable outside British India by means of evidence other than the production of the bill itself in certain cases where it has been lost owing to war conditions.

National Service.—Ordinance 2 amends the National Service (European British Subjects) Act (18 of 1940) in order to extend the benefits under ss. 7C and 8 of the Act to officers of the Armed Forces who are temporarily employed in the Civil Administration.

Ordinance 38 amends the Act to confer the powers given to the competent authority, as defined in the Act, primarily on the Army Commanders with a provision for delegation of their functions to any officer not below the rank of Brigadier.

Reserve Bank of India.—Ordinance 19 temporarily amends the Reserve Bank of India Act (2 of 1934) in order to enable the Reserve Bank of India to perform certain functions and to exercise certain powers in relation to the currency and coinage of Burma and also in relation to certain other business of the British Military Administration in Burma.

Defence of India.—Sub-rule (4) of rule 130 of the Defence of India Rules had been held to be *ultra vires* to the extent to which it provided for the summary trial of contraventions of orders made under the Rules, since clause (i) of sub-s. (3) of s. 3 of the Defence of India Act (35 of 1939) on which the sub-rule was based did not include any reference to the contravention of orders. Similar omissions occurred in clauses (v), (vi) and (vii) of sub-s (3) of s. 2 and also in s. 17 (which affords protection to acts done in good faith). To remove these defects the Defence of India (Amendment) Ordinance, 1945 (No. 25), was promulgated.

Ordinance 31, the Defence of India (Second Amendment) Ordinance, 1945, amends the Defence of India Act in order to omit certain extraordinary powers given to the Provincial Transport Authorities and the Regional Transport Authorities by the Act as amended. These powers were omitted in view of the improved war situation. The Defence of India (Fourth Amendment) Ordinance (No. 45) further amends the Act. It lays down that where a property is first requisitioned and then acquired the market value of the property to be taken into consideration for the purpose of determining the compensation payable under the Defence of India Act (35 of 1939) shall be the market value at the date of requisition and not that at the date of acquisition. It further provides that Government may acquire, on payment of compensation under the Defence of India Act, any requisitioned property if works have been constructed thereon at the expense of Government and if acquisition is necessary to preserve or secure for Government the value of the works or in cases where the cost of restoring the property to its original condition is likely to be disproportionate to its value at the time of requisition.

Factories.—The Factories (Control of Dismantling) Ordinance (31 of 1943) did not specifically include idle factories within its scope. A factory which had not worked at any time after September 15, 1942 (being one year before the Ordinance came into force), was not liable to control for the purposes of the Ordinance. This was due to the fact that the Ordinance adopted, without any qualification, the definition of " factory " down in the Factories Act (25 of 1934). Thus no control could be exercised over the dismantling of machinery in and its removal from an idle factory. Ordinance 1 amends Ordinance 31 of 1943 so as to bring idle as well as operating factories within its purview.

War Injuries and Insurance.—Ordinance 10, the War Injuries (Amendment) Ordinance, 1945, amends the War Injuries Ordinance (7 of 1941). This Ordinance did not cover injuries or death sustained by fires or explosions like the explosion at Bombay on April 14, 1944. The Government of India had sanctioned *ex gratia* compensation for persons injured in that explosion. In view of the growing intensity of the war in the East and the amount of ammunition and explosives which were passing through India, similar accidental fires and explosions were considered not unlikely. It was therefore thought advisable to amend clause 6 of s. 2 of Ordinance 7 of 1941 so as to include therein a provision to cover physical injury resulting from explosions or fires which involved explosives and munitions required for war purposes. Ordinance 10 of 1945 was subsequently repealed by Ordinance 1 of 1946.

Ordinance 13 amends the War Risk (Factories) Insurance Ordinance (12 of 1942) to provide for explosions and fires, such as the Bombay explosion, which involve explosives and munitions required for war purposes. This was repealed by Ordinance 1 of 1946.

With the end of hostilities it was decided to wind up the War Injuries Scheme and the complementary scheme for War Injuries Compensation Insurance. The War Injuries Ordinance (7 of 1941) which dealt with the former scheme contained a provision which enabled the Central Government to declare by notification the date on which hostilities terminated. There was, however, no similar provision in the War Injuries (Compensation Insurance) Act (33 of 1943) which dealt with the latter scheme. Ordinance 41 provides for the definition of the

term " termination of the present hostilities " so as to enable the Central Government to issue a similar notification for the purposes of that Act. Ordinance 34 was promulgated to terminate the War Risk (Goods) Insurance Scheme in view of the end of hostilities. It repeals those provisions of the War Risk (Goods) Insurance Ordinance (9 of 1940) which deal with the scheme and prohibit War Risk Insurance by private parties. The remaining provisions of that Ordinance were retained in order to deal with cases of past default. Ordinance 29 similarly terminates certain other schemes. It repealed certain sections of the War Risks (Factories) Insurance Ordinance (12 of 1942) and the War Risks (Inland Vessels) Insurance Ordinance (25 of 1943).

Military Detention.—The Military Safety (Powers for Detention) Amendment Ordinance, 1945 (No. 4), was promulgated as it had become necessary to move in custody between India and Burma (in both directions) persons who had assisted or were suspected of having assisted the enemy. The existence, however, of different law, procedure and administrations on either side of the Indo-Burma border gave rise to difficulties in connection with such movements. It was not considered advisable to go through the complicated procedure necessary under the Fugitive Offenders Act, 1881 (44 and 45 Vict., c. 69), and therefore powers were taken by Ordinance to facilitate such movements.

Special Powers of Armed Forces.—The Armed Forces (Special Powers) Amendment Ordinance, 1945 (No. 36), amends s. 3 of Ordinance 41 of 1942 which required any person taken into custody under the Ordinance to be handed over to the civil police. If a person taken into custody under that Ordinance was subject to military law this obligation causes unnecessary trouble since he had to be handed back subsequently to the military authorities. Ordinance 36 provides that where a person taken into custody is a person subject to military law he should be handed over to the appropriate military officer without the intervention of the civil police.

Social Legislation.—In order to secure the maximum production of coal during the war, Government had been obliged to lift the ban on the employment of women underground in mines. In view of this fact Government were anxious to make early provision to ameliorate the working conditions of such labour. To ensure uniformity it was considered advisable to place upon all mine owners a statutory obligation for the provision of crèches. This was done by Ordinance 17 which amends the Indian Mines Act (4 of 1923).

Other Ordinances which were amended during the year were the Military Operational Area (Special Powers) Ordinance (37 of 1943) which was amended by Ordinance 28 of 1945 (subsequently repealed by Ordinance 1 of 1946); the Civil Pioneer Force Ordinance (10 of 1942) amended by Ordinance 27 of 1945 ; and the Delhi Rent Control Ordinance (25 of 1944) amended by Ordinance 3 of 1945. None of these calls for any special comment. It may be noted that all the above Ordinances relate to matters arising either directly or indirectly from conditions due to the war. Other Ordinances are commented upon below.

Validating Ordinances.—The Provincial Debt Laws (Temporary Validation) Ordinance, 1945 (No. 11), validates the provisions of certain provincial debt enactments both prospectively and retrospectively in reference to promissory notes. This measure was designed to meet the difficulty created by a decision of the Federal Court in 1944 (F.L.J. 269) to the effect that the provisions of the Bengal Moneylenders Act (Bengal Act 10 of 1940) in so far as they related to claims on promissory notes were *ultra vires* of the Provincial Legislature. This temporary Ordinance (it is to remain in force up to March 31, 1947) was promulgated to maintain the *status quo* in respect of the relevant provincial enactments pending the result of the appeal to the Privy Council.

The Secunderabad Marriage Validating Ordinance, 1945 (No. 30), validates an irregular marriage between Christian subjects solemnized in Secunderabad. The necessity of this Ordinance arose as a marriage between Christians was per-

formed by a Methodist Minister who had been granted a licence to marry Indian Christians but who was not authorized to marry Christians who were not Indian Christians.

International Monetary Fund and Bank.—The International Monetary Fund and Bank Ordinance, 1945 (No. 47), makes provisions for implementing the International Monetary Fund and Bank Agreements.

Pensions Appellate Tribunals.—The Pensions Appellate Tribunals (Powers) Ordinance, 1945 (No. 46), vests the Pensions Appellate Tribunals with the powers of a civil court for certain purposes and provides that such Tribunals shall be deemed to be a Civil Court within the meaning of ss. 480 and 481 of the Code of Criminal Procedure (V of 1898).

Income Tax.—Ordinance No. 9 amends the Indian Income Tax Act (11 of 1922) to exempt a portion of the earned income from liability to pay income tax. The Income-tax and Excess Profits Tax (Validity of Notices) Ordinance (45 of 1944) was amended by Ordinance 16 of 1945 whilst Ordinance 20 of 1945 amended the Excess Profits Tax Ordinance (16 of 1943).

Explosives.—Ordinance 18 amends the Indian Explosives Act (4 of 1884) in order to provide that exemptions from the provisions of the Act shall be granted by the Central Government alone and to provide that accidents of a serious nature shall be inquired into by Central Government experts.

Criminal Law.—The Criminal Law Amendment Ordinance (38 of 1944) was amended by Ordinance 14 of 1945 and the Criminal Law Amendment Ordinance (29 of 1943) by Ordinances 12 and 22. The matters dealt with include *inter alia* the cases triable by Special Tribunals, the composition of such tribunals and appeal and revision.

Regulations.—During the year, seven Regulations were made by the Governor-General, four under s. 95 of the Constitution Act in regard to British Baluchistan and three under s. 96 in regard to the Andaman and Nicobar Islands.

British Baluchistan.—Regulations 1 and 4 amend the British Baluchistan Laws Regulation (2 of 1913). Regulation 2 provides for the control of rents in the urban areas of British Baluchistan and Regulation 3 amends the British Baluchistan Entertainment Duty Regulation (1 of 1942).

Andaman and Nicobar Islands.—Regulation 5 deals with the operation of laws in the Islands and removes doubts which had arisen following their reoccupation of those Islands after the Japanese had been driven out. Regulation 6 constitutes a development force in those Islands and provides for its organization, control and discipline. Regulation 7 amends the Andaman and Nicobar Islands Regulation of 1876.

2. MADRAS

[*Contributed by* Sir K. V. Rajagopalan, *Deputy Secretary to Government.*]

Twenty-six Acts were passed in the year 1945.

Commercial Crops.—Act XXI remedies certain defects found in the Commercial Crops Markets Act, 1933. Where a market committee is established for any commercial crop, no licence is to be granted or renewed in respect of any place for the purchase or sale of the crop, if it is situated within a prescribed distance from the market. Local bodies will cease to be represented on the market committees. Provision has been made for the removal of a member of a market committee from office, the holding of anticipatory elections, the payment of fees by the purchaser or seller of the commercial crop and the supersession of market committees.

Courts.—Act I provides that in suits or other proceedings instituted in the High Court, which, in the opinion of the Judge, ought to have been instituted in the City Civil Court or the Court of Small Causes, the successful defendant should

be allowed costs on the maximum scale admissible under the Madras High Court Fees Rules.

Act XXII empowers the High Court to receive appeals when the District Court or the Subordinate Judge's Court in which they should ordinarily have been filed is closed for the vacation.

Court Fees.—Act XVII makes a consequential amendment to the Indian Court Fees Act, 1870, which became necessary by reason of the repeal of the Second Schedule to the Code of Civil Procedure by the Indian Arbitration Act of 1940.

Criminal Tribes.—Act XXV amends the Indian Criminal Tribes Act, 1924, in its application to this Province, so as to empower the Superintendent of Police also, subject to the control of the District Magistrate, to hold in abeyance a direction of the Government that every registered member of a notified tribe should report himself at fixed intervals.

Estates Land.—Act II amends the Madras Estates Land Act, 1908, to make it clear that a named village granted in *inam* (gift) will be an " estate " although some lands in such village might previously have been granted on service tenure or been reserved for communal purposes. Inamdars affected by the amending Act will have an opportunity to establish their rights to *kudivaram* (tenant's right) before a special Tribunal within one year from the commencement of the Act.

Act XIV provides for the execution of the orders passed by special Tribunals constituted under s. 185-A of the Madras Estates Land Act, 1908.

Improvement Trust for City of Madras.—Act XVI provides for the constitution of a Board of Trustees charged with the duty of improving the city and its neighbourhood by opening up congested areas ; laying out new, and altering existing, streets ; and by framing and executing various improvement schemes. The board will consist of nine members, including a salaried chairman, appointed by Government. It will have no power to levy taxes and will be financed mainly by the Government and the Corporation of Madras which will each make an annual contribution of not less than 2½ lakhs of rupees (approximately £20,000). Some miscellaneous items of revenue such as betterment contributions and income from investments on lands have been assigned to the Trust. The board will have power to borrow money from the Government or with the sanction of the Government in the open market.

Irrigation.—Act III makes it clear that the water-cess levied under the Irrigation Cess Act, 1865, is not a tax on land, but a fee levied for water supplied or used for irrigation.

Act IV amends the Madras Irrigation Works (Repairs, Improvement and Construction) Act, 1943, so as (i) to limit the liability of the landholder to so much of the cost of the irrigation work constructed by the Government as is proportionate to the extent of his lands served by the work, subject to a maximum of 25 times the additional annual income which he will derive from the work ; (ii) to provide that the cost of maintaining the work shall be shared between the landholder and the Government in the same proportion as the cost of construction ; and (iii) to make provision for cases where an irrigation work serves either two or more estates or two or more estates together with ryotwari lands (lands held direct under Government).

Land Tenures.—Act VI provides for the monthly publication in the *Malabar District Gazette* during the period of the war and for a specified period thereafter, of the market prices of certain agricultural commodities, to facilitate the evaluation of the rent payable by tenants in the district of Malabar.

Act XXIV provides that, in the district of Malabar, a landlord cannot evict a tenant from the holding merely on the ground that the landlord requires it *bona fide* for his own cultivation or for building purposes, unless the landlord wishes to raise crops or other produce for his own maintenance or that of his

family, or (ii) for constructing a building for his own use or for that of his family.

Local Government.—Act X raises the rate of land-cess from $9\frac{3}{8}$ per cent. to $12\frac{1}{2}$ per cent. of the annual rent value of all occupied lands and gives the additional revenue to district boards.

Act XVIII enhances the maximum rate of duty leviable in the City of Madras on sales, gifts and mortgages with possession of immovable property from 2 per cent. to 5 per cent. of the amount of the consideration, the value of the property or the amount secured by the mortgage. Act XX of 1945 provides for the first time for the levy of a similar duty in other areas of the Province, subject to the same maximum, *viz.*, five per cent.

Act XXIII empowers the Government to require any district municipal council to sanction one or more posts of assistant municipal electrical engineer.

Medical Registration.—Act XI empowers the Government, during the continuance of the war and for a period of six months thereafter, to extend the term of office of the members of the Madras Medical Council.

Pawnbrokers.—Act XXVI restricts the scope of s. 2 (5) (ii) of the Madras Pawnbrokers Act, 1943, to advances made by regular banking companies.

Prevention of Begging.—Act XIII provides for the prevention of begging in the Province outside the City of Madras and is modelled on the provisions of Act XIII of 1941 (summarized at page 188, *Jour. Comp. Leg.*, Volume XXV, Parts I and II).

Prevention of Couching.—Act XII prohibits unqualified persons from doing the operation of "Couching."

Registration of Births and Deaths.—Act XIX amends the Madras Registration of Births and Deaths Act, 1899, to give effect to the recommendation of the Royal Commission on Labour that in the case of plantations, the manager should be required to maintain registers of births and deaths. It also provides for (i) the register of births and deaths being searched for particular entries by the Registrar on payment of a small fee, (ii) the furnishing of extracts from the register by post, on payment of the postal charges in addition to the usual fee, and (iii) the imposition of a penalty on Registrars who fail to perform their duties.

Taxation.—Act V increases by 50 per cent. the rates of entertainments tax leviable on tickets for admission to entertainments exceeding two annas (two pence).

Act VII restores the exemption of sales of bullion and specie from the general sales tax, and Act IX substitutes annual, for monthly, taxes in certain cases.

Act VIII imposes a duty on electrical energy consumed by a licensee for purposes other than those connected with the construction, maintenance and operation of the electrical undertaking, the levy being limited to cases where the energy would have been sold to a private consumer, under the same conditions, for more than two annas (two pence) per unit.

Act XV validates the levy of surcharges by certain electrical undertakings, in pursuance of orders of the Government under the Defence of India Rules.

3. BOMBAY

[*Contributed by* P. N. Moos, Esq.]

Municipalities.—Act I gives relief to the Municipal Corporation of the City of Bombay by reducing the municipal contribution to the improvement schemes account for a further period of three years from April 1, 1945, on which date the relief afforded by Bombay Act XVI of 1942 ceases to operate.

Villages.—Act II provides for the revenue and police patels being ex-officio members of village panchayats and for exemption from the levy of the tax by village panchayats of certain classes of buildings, and prescribes the modes for the presentation of bills and writs of demand.

Medical Register.—Act III provides for confining the printing and publishing of the Bombay Medical Register only to the year in which the general elections are to be held and provides for printing and publishing supplementary lists in other years.

4. BENGAL

[*Contributed by* G. M. Ratcliff, Esq., *Secretary to the Government of Bengal.*]

By a Proclamation dated March 31, 1945, under s. 93 of the Government of India Act, 1935, the Governor, as the result of a breakdown of the constitutional machinery, assumed to himself the legislative powers of the Provincial Legislature. Hence only Act 1 has been passed by the Bengal Legislature, the remaining sixteen Acts in 1945 were enacted by the Governor under the powers of s. 93. Nine of the Acts passed during the year were amending Acts.

Forests.—An important Act was Act II, the Bengal Private Forests Act, 1945. Progressive denudation of forests had caused considerable soil erosion, and shortage of timber for firewood had led to the wasteful practice of using cowdung for fuel and its consequent loss as valuable manure. The Act was designed to provide for the conservation of forests and the afforestation of waste land where such forests or land were not the property of the Crown or in which the Crown had no proprietary rights. The Act provides a strict measure of Government control over private forests, e.g., once a notification under s. 3(*1*) of the Act has been issued, leases or extensions of the terms of existing leases are prohibited under s. 5 of the Act.

Slum Improvement.—Act 16 is an interesting piece of social legislation. In certain areas and especially on the outskirts of Calcutta and in the Howrah Municipality, there are slum areas which will eventually have to be demolished. This will be costly and will require time and also the re-housing of the inhabitants. Hence the Bengal Slum Improvement Act, 1945, has been designed to allow the Provincial Government to authorize local authorities to carry out schemes of improvement within notified areas in cases where demolition will eventually be necessary. As far as possible such schemes are to be carried out at the expense of the owners of the buildings and land in the notified area, but the Provincial Government and local authority may, in exceptional cases, bear in equal shares an amount not exceeding half the cost of the scheme. The schemes of improvement are to be directed to securing immediate amelioration of living conditions and for removing circumstances likely to cause or facilitate the spread of disease. The Act extends to the town of Calcutta and to all municipal areas. The Provincial Government may act either of its own motion or on the recommendation of a local authority.

Finance.—No less than five Acts (Acts 2, 7, 8, 9 and 14) were concerned with Finance. They vary certain rates of various taxes imposed under other statutes, e.g., entertainment tax, betting tax, electricity tax, etc.

Immoral Traffic.—Act 5 was an Act to amend the Bengal Suppression of Immoral Traffic Act, 1933, and to extend its scope to include the suppression of brothels.

Gambling.—Act 10 enhanced the penalties provided in certain other statutes relating to public gambling, such as illegal wagering or betting upon horse-races.

Destitution.—Acts 13 and 17 were enacted as a consequence of the distress prevailing after the economic crisis commonly known as the Bengal Famine. They concern the detention, relief and repatriation of destitute persons found wandering about. Provision is made for institutions in which they may be detained, for their maintenance, medical treatment and discipline whilst so detained, and for their final repatriation to their ordinary places of residence. S. 8 of Act 13 provides for punishment of persons leaving without permission the institution in which they have been detained. Previous provision for such

arrangements had been made by Bengal Ordinances 3 of 1943 and 2 of 1944, but these Ordinances, which were promulgated by the Governor under s. 88(*1*) of the Government of India Act, 1935, as measures of urgent necessity at times when the Legislature was not in session, had ceased to be in operation.

5. UNITED PROVINCES

[It is hoped to publish the review in the next issue.]

6. PUNJAB

[*Contributed by* THE LEGAL REMEMBRANCER.]

Two Acts and one Ordinance were passed.

Badshahi Mosque.—Act I provides for the levy of a cess upon Muslim land-owners for the year commencing April 1, 1945, for a permanent maintenance and repair fund in respect of the Mosque.

7. BIHAR

[*Contributed by* T. G. N. AYYAR, ESQ., I.C.S., *Secretary to the Government.*]

TEN Acts were enacted during the year 1945. These Acts were enacted by His Excellency the Governor of Bihar by virtue of the legislative powers assumed to himself by the Proclamation, dated November 3, 1939, issued by him under s. 93 of the Government of India Act, 1935.

Local Government.—Act No. 1 empowers the Provincial Government to provincialize the services of District Board Engineers.

Act No. 9 empowers the Provincial Government to determine the strength and remuneration of the staff of district boards.

Act No. 2 seeks to validate past assessments and recoveries of latrine tax in the area within the Patna Administration Committee.

Act No. 6 makes it obligatory for municipalities to constitute a special water-works committee for municipal waterworks with certain well-defined powers.

Act No. 8 empowers the Provincial Government to determine the strength and remuneration of the staff of municipalities.

Maternity Benefit.—Act No. 3 prohibits the employment in factories of women workers during certain periods preceding and following their confinement and provides for the payment to them of maternity benefit at certain prescribed rates.

Military Service.—Act No. 4 seeks to safeguard the interest of raiyats and under-raiyats who were absent on military service during the last war whose holdings were sold during their absence in execution of decrees for arrears of rent.

Nurses.—Act No. 5 provides for increased representation of nurses on the Nurses Registration Council of the Province.

Munsifs' Proceedings.—Act No. 7 seeks to delegate to the High Court, with retrospective effect, the powers to vest Munsifs with power to try suits up to the value of Rs. 4,000 and to validate certain notification issued by the High Court and certain proceedings in Munsifs' Courts.

Motor Vehicles.—Act No. 10 amends the Bihar and Orissa Motor Vehicles Taxation Act, 1930, by (1) exempting vehicles, other than transport vehicles, taxed in any other province in respect of any quarters from further taxation on transfer to Bihar ; and (2) providing for penalty for breach or contravention of rules framed under s. 14 of the Act.

Three Regulations were made by the Governor under s. 92(2) of the Government of India Act, 1935, during the period under review.

Regulation No. 1 applies, with retrospective effect, the Government Savings Banks Act, 1873, and the Post Office Cash Certificates Act, 1917, to the Porahat Estate in the district of Singhbhum and validates past acts and proceedings taken under the two Acts.

Regulation No. 2 makes certain modifications in the Bihar and Orissa Local Self Government Act of 1885 in its application to the Santal Parganas.

Regulation No. 3 empowers the Provincial Government to grant exclusive licence for the purchase of *sabai* grass in the Santal Parganas.

8. CENTRAL PROVINCES AND BERAR

[*Contributed by* E. A. A. SNELSON, ESQ.]

DURING the year 1945 thirteen Acts were enacted, the important being those mentioned below. They are principally of interest only as illustrating special conditions caused by the late war.

Forest.—Act I enhanced the fine from Rs.200 to Rs.1,000 for offences in respect of forest growth. This was to check the reckless exploitation of malguzari (i.e., privately owned) forests caused by soaring prices.

Agriculture.—Act XI provides for the compulsory assessment of a water-rate on lands commanded by public irrigation. Irrigated land under food crops gives twice the yield of unirrigated land, and the amendment was aimed at bringing as much land as possible under food and under irrigation.

Co-operative Societies.—The liquidators of certain co-operative societies in Berar passed contributory orders which have been held *ultra vires* by Civil Courts, and Act X is to validate them. Mismanagement and increasing depression throughout the 'thirties brought the co-operative movement virtually to bankruptcy. The war changed conditions and brought an increased demand for agricultural products and higher prices. To accelerate rehabilitation the Act enables co-operative banks to acquire new assets to pay off the amounts remaining due under an arrangement permitted by another provision of the same law and thereby to terminate the arrangement, leaving it free to function normally as a co-operative bank.

9. ASSAM

[*Contributed by* H. C. STORK, ESQ., C.I.E., *Secretary to the Government of Assam in the Legislative Department.*]

ANNUAL Summary of Legislation passed in Assam during the year 1945.

Finance.—Act I fixes the rate at which Agricultural income shall be taxed under the Assam Agricultural Income-tax Act, 1939.

Elections.—Act II further postpones the triennial elections of Local Boards in Assam and makes other consequential provisions.

10. NORTH-WEST FRONTIER PROVINCE

[*Contributed by* THE LEGAL REMEMBRANCER.]

ONLY one Session of the Provincial Legislative Assembly was held in the year 1945. It was the Budget Session which started on March 9 and ended on March 29. The Provincial Legislative Assembly was dissolved in November, 1945, for the general elections which were held in January–February, 1946. This is the reason why the Autumn Session of the Assembly could not be convened during the year 1945.

Only one Official Bill, the North-West Frontier Province (Adolescent) Prisoners' Release on Probation (Amendment) Bill, was introduced in the Assembly during its Budget Session held in March, 1945. The reason for its introduction is explained in the following few lines:—

S. 2 of the original Act, The North-West Frontier Province (Adolescent) Prisoners' Release on Probation Act, 1940, lays down that ". . . where an adoles-

cent person is confined in prison under a sentence of imprisonment, and it appears to the Provincial Government from his antecedents and his conduct in the prison that he is likely to abstain from crime and lead a peaceful life if he is released from prison, the Provincial Government may, by licence, permit him to be released on condition that he be placed under the supervision or authority of a Government Officer or of a person professing the same religion as the prisoner, or such secular institution or such society belonging to the same religion as the prisoner as may be recognised by the Provincial Government for this purpose, provided such other person, institution or society is willing to take charge of him. . . .'' The Explanation to this Section provided that a prisoner released under the Act shall not be placed under the supervision or authority of his parents or near relatives.

According to the custom and usage of the country a girl cannot be handed over to a Government Officer, or a private person or society, etc., if she is of marriageable age. Thus a girl adolescent prisoner could not secure the benefit of release under the Act, because the custom and usage of the country cannot tolerate that after her release she should be placed under the supervision or authority of outsiders. The Bill under reference was introduced to remove this difficulty. It provided that on her premature release from prison under the (Adolescent) Prisoners' Release on Probation Act, 1940, she should be handed over to her parents or a near relative.

Explanation II to s. 2 of the Act runs thus: '' Adolescent prisoner means a prisoner under the age of 25 years and confined in the Adolescent Training Centre of a Prison in the North-West Frontier Province.''

The Bill provided that an adolescent girl prisoner undergoing imprisonment in any jail in the Province (no matter whether it has any Adolescent Training Centre or not) should be entitled to premature release under the original Act.

The Bill was passed unanimously and received the assent of the Governor on March 27, 1945.

One non-official Bill, the North-West Frontier Province Attendance Bill, was also introduced during the Session under reference. It was passed after having been referred to a Select Committee. It contained provision to the effect that ''. . . notwithstanding anything contained in any Act, Regulation, Ordinance, or Rule, any member, who at the time of the session of the North-West Frontier Province Legislative Assembly or a meeting of the Committee is under detention, shall not, by virtue of such detention, be precluded from attending the session or the Committee, as the case may be, and shall be summoned by the Governor to attend such session or meeting.'' His Excellency the Governor reserved the Bill for the consideration of the Governor-General who withheld his assent from it.

11. ORISSA

[*Contributed by* R. L. NARASIMHAM, ESQ., I.C.S., *Legal Remembrancer.*]

DURING the year 1945 (from January 1 to December 31) six Acts were passed and all these Acts were enacted during the Proclamation period under s. 93 of the Government of India Act, 1935, when the Governor of Orissa had assumed to himself all powers vested by, or under, the said Act in the Provincial Legislature.

Land Tenure.—The Madras Estates Land (Orissa Amendment) Act, 1945, No. 1 provides for temporary protection of the occupancy right of ryots in whole Inam villages and directs stay of proceedings in ejectment of such tenants up to March 31, 1946. The annual Moratorium Act will be shortly replaced by a permanent amendment and a Bill to this effect is pending before the Orissa Legislative Assembly.

Surcharge.—The Orissa Stamp (Surcharge Amendment) Act II, provides for

an enhancement of stamp duty, subject to certain cases, at rates specified in the Schedule annexed to the Act.

The Bihar and Orissa Co-operative Societies (Orissa Amendment) Act III makes a formal amendment extending the period for dissolution of a managing committee from six to eight years.

The Orissa Court-fees (Surcharge Amendment) Act IV provides for an enhancement of court fees at rates specified in the Schedule annexed to the Act.

Land Tenure.—The Madras Estates Land (Orissa Amendment) Act V provides for a temporary amendment of s. 172 of the parent Act by extending the period within which revision of any record of rights may be made from two years to six years.

The Orissa (Munsif's Proceedings) Validation Act VI seeks to remove doubts and to validate certain proceedings in Munsif's Court in Orissa.

During the year 1945, two Orissa Regulations, *viz.*, the Angul Laws (Amendment) Regulation and the Khondmals Laws (Amendment) Regulation were enacted under s. 92(2) of the Government of India Act, 1935. These Regulations were enacted for the purpose of enforcing The Indian Soldiers (Litigation) Act, 1925, and The Indian Aircraft Act, 1934, in the districts of Angul and the Khondmals which are partially excluded areas.

12. SIND

[*Contributed by* THE DEPUTY SECRETARY TO GOVERNMENT.]

THE Sind Legislative Assembly held two sittings—one in February and the other in March, 1945. Twelve Acts were passed during these sittings dealing with the following subjects:—

Parliamentary Salaries.—Act III enhances the existing rates of salaries, allowances of Ministers, Speaker, Deputy Speaker and the Members.

Judicial.—Act IV extends the life of the Sind Suppression of Hur-Outrages Act, 1942, and validates the proceedings which remain unfinished in spite of the Act having expired.

Act VII amends the Bombay Civil Jails Act, 1874, so as to provide for the framing of rules for the punishment of offences connected with the administration of Civil Jails, etc.

Act XI amends the Sind Suppression of Hur Outrages Act, 1942, in certain respects.

Local Self Government.—Act I extends the term of office of the members of local boards in the Province of Sind.

Act II repeals the Karachi Joint Water Board (Amendment) Ordinance, 1944, and amends the Karachi Joint Water Board Act, 1943, with a view to re-enact the provisions of the Ordinance which altered the constitution of the Karachi Joint Water Board and empowered it to maintain the waterworks included in the Haleji Water Storage Scheme.

Act X extends the term of office of the members of the Karachi Municipal Corporation.

Taxation.—Act V provides for the imposition of penalty in cases in which the application for removal of licence is not made in time.

13. COORG

[*Contributed by* THE CHIEF COMMISSIONER.]

THE three Acts passed in the year were as follows:—

Stamp Duty.—A number of development schemes in regard to the resettlement of soldiers' agriculture, industry, education and public health, etc., are being examined by the Post-War Reconstruction Committee with a view to carry

them out immediately after the war. Financial considerations will inevitably be a determining factor in the selection of these schemes.

With a view, therefore, to augment the revenues and also to combat to some extent the inflation of prices it was decided to increase the stamp duties prescribed in Schedule I-A of the Indian Stamp Act, 1899, as in force in the Province of Coorg. Such a decision is not new to this Province alone. The Government of Madras took action in this direction with effect from October 1, 1943, and the Act No. 1 passed in Coorg is on the lines of the Madras Act XVI of 1943. As in the case of Madras, the duties were proposed to be doubled in respect of certain trade documents and in respect of certain other documents, the increase proposed is one and a half times the existing duties. This Act is intended to give effect to the above proposals.

In order, however, that transactions in respect of co-operative documents are not affected by this Act a separate notification was issued declaring that such documents are not liable to pay the enhanced stamp duty.

Tobacco.—The Coorg Tobacco Act, 1940, which came into force on December 1, 1940, was enacted to augment the provincial revenues. It provides for the licensing of all transactions in tobacco (manufactured and unmanufactured) and the levy of a tax on the wholesale sale and retail sale.

With effect from April 1, 1943, the Government of India have been levying an excise duty on tobacco under the Tobacco (Excise Duty) Act, 1943 (since merged in the Central Excises and Salt Act, 1944, with effect from April 1, 1944). At the request of the Government of India, orders were issued that no action should be taken for the issue or renewal of licences for 1943–44 in the case of wholesale dealers in unmanufactured tobacco. It was therefore decided in consultation with the Government of India that in order to protect the tobacco trade from double taxation, the Coorg Tobacco Act, 1940, should be repealed altogether. The Government of India, however, agreed to pay to the Coorg Administration a permanent compensation of Rs. 4,600 per annum which is the annual average income from this source with effect from April 1, 1944, for the complete withdrawal of and future abstention from all forms of provincial taxation of tobacco within the province of Coorg and for the consequent loss to the Coorg Provincial Revenues. Accordingly this Act No. 2 was passed to repeal the Coorg Tobacco Act, 1940, with effect from April 1, 1944.

The Municipal Taxes.—Prior to the enactment of the Coorg Municipal Regulation, 1907 (II of 1907), the municipalities in Coorg were being governed by the North-Western Provinces and Oudh Municipalities Act, 1873 (XV of 1873) (except ss. 34 and 35) extended to Coorg under the Scheduled Districts Act, 1874 (XIV of 1874). S. 18 of that Act empowered the Chief Commissioner in general terms to frame rules for the collection of taxes. Under this power, the Chief Commissioner had framed rules in 1894 (Notification No. 1, dated January 16, 1894) empowering the President or Vice-President of a municipality to collect the arrears of taxes by the issue of a warrant of distress against the movable property of the defaulter. This notification has no force of law now as there is specific provision for the collection of taxes in s. 43 of the Coorg Municipal Regulation, 1907, and as the procedure detailed in the notification referred to above is inconsistent with the provisions of s. 43.

Ever since the coming into force of the Coorg Municipal Regulation, 1907, the procedure contained in s. 43 of the Regulation is being adopted for the recovery of arrears of municipal taxes. According to s. 43 the municipal committee should apply to a Magistrate having jurisdiction within the limits of the municipality for the recovery of arrears of any tax by distress and sale of the movable property belonging to the defaulter within the limits of such Magistrate's jurisdiction. Warrants issued by a Magistrate are normally executed through the agency of the police. It was found out that this practice of engaging the police for collection of local taxes is not in vogue anywhere else. The police rightly com-

plained that this unpleasant duty of collecting local taxes which is not thrust on the police in any other province should be taken away from them. It was not contended that the duty of issuing warrants and getting them executed should not be borne by the committee. It was, therefore, considered desirable to amend s. 43 of the Regulation. The idea underlying the amendment was to take power for Government to frame rules for the collection of taxes on the lines of rules 29 to 36 in Schedule IV to the Madras District Municipalities Act, 1920, in respect of distraint and sale of movable property and on the lines of the procedure laid down in the Coorg Land and Revenue Regulation, 1899, where the tax due is in respect of immovable property. This Act No. 3 is intended to give effect to the above proposals.

With a view to provide a better check on the confirmation of sales of immovable properties, s. 3 provides that the authority to confirm the sale of an immovable property is the Assistant Commissioner subject to a right of appeal to the Chief Commissioner.

14. BURMA

[*Contributed by* G. R. RAJAGOPAUL, ESQ., M.B.E., *Second Judge, Rangoon City Civil Court.*]

CONSEQUENT on the temporary occupation of Burma by the enemy the Government of Burma was compelled to establish its headquarters in Simla, India, during the latter half of the year 1942, and much of the legislation passed during the years 1943 to 1945 was therefore enacted in Simla. One of the first acts of the legal Government-in-exile on reaching India was to suspend the operation of some of the provisions of the Government of Burma Act, 1835, on which the constitution of Burma was based, as by then the constitution had become unworkable. By a Proclamation, dated December 10, 1942, issued under the Constitution Act, the Governor therefore assumed to himself all powers vested in the Legislature, and it was in the exercise of these powers that all legislation during this period was passed. Pending the formation of a new Legislative Council this Proclamation still continues to have operation even after the re-establishment of the legal Government in Burma.

Any law passed in virtue of the legislative powers thus assumed by the Governor continues to have effect, notwithstanding the expiry of the Proclamation, until two years have elapsed from the date on which the Proclamation ceases to have effect, unless sooner repealed or re-enacted by Act of the Legislature.

The fact that Burma had temporarily passed into the hands of the enemy gave rise to many problems which required legal solution. On the basis that no English Court would hold that an enemy Government is the *de facto* Government of British or Allied territory temporarily occupied by it under the exigencies of the war, the lawful Government-in-exile continued to legislate for and in respect of matters arising from territory thus temporarily lost to the enemy. It was assumed that a British Court will continue to treat the lawful Government-in-exile of a part of the British Commonwealth as the *de jure* and *de facto* Government of all its normal territories in spite of the occupation of a part or the whole of it by the enemy.

Parliament, in fact, had given oblique recognition to the existence of the legal Government of Burma on foreign soil by authorizing it to raise forces in India by the India and Burma (Temporary and Miscellaneous Provisions) Act, 1942. This statute also made references to services, posts or authorities established in India in continuation or substitution of the Civil Services or Civil posts under the Crown in Burma.

Twenty-eight Acts were passed during the year 1943. Some of these, like the Rangoon Port (Emergency Provisions) Act (I, 1943), the Burma Railways

(Emergency Provisions) Act (II, 1943), the University of Rangoon (Suspension) Act (V, 1943), the Municipal Corporation of the City of Rangoon (Suspension) Act (VIII, 1943) and the Rangoon Development Trust (Emergency Provisions) Act (IX, 1943), were Acts passed for the purpose of enabling the local bodies concerned which had evacuated to India to function temporarily in India. By an Act called the Administration of Public Funds Act (III, 1943) the Governor was enabled to appoint suitable persons to administer public funds which had been taken out to British India by banks or other similar bodies. The Indian Courts (Burma Jurisdiction) Act (VI, 1943) gave jurisdiction to Indian High Courts in respect of certain matters like Probate, Insolvency and Divorce which otherwise would have fallen to be disposed of in Burma. Incidentally, this Act has now been repealed. Certain emergency provisions, like the Special Judges Act (X, 1943), the Courts Emergency Provisions Act (XI, 1943) and the Emergency Provisions Act (XII, 1943), were enacted with a view to speeding up trials by the appointment of special tribunals and by suspending the operation of certain unsuitable provisions of law. The Courts (Emergency Provisions) Act requires special mention because by this Act Civil Courts in Burma were deemed to be closed until the contrary was notified by the Governor and by this provision it was sought to stop limitation running so as to bar actions. By the Burma Companies (Transfer) Act (XIV, 1943) Burma companies were enabled to get themselves transferred to India or to the United Kingdom and to get duly registered therein. A few of the enactments passed during this year related to amendment of the Burma Army Act and the Defence of Burma Act and do not require detailed mention here. The Births, Deaths and Marriages Registration Act (XXVI, 1943) provided for the reconstruction of the records relating to births, deaths and marriages which had taken place in Burma and for the registration of births, deaths and marriages in a few other cases.

1944

THERE were 10 Acts passed during the year 1944, and amongst the Acts so passed the most important Act is the Arbitration Act of 1944 (IV, 1944). This measure had nothing to do with the war but was a peace-time enactment to be put into force after reoccupation. By this Act the Law of Arbitration in Burma was consolidated ; up till now the law, which was in an unsatisfactory state, was to be found in two or three different statutes. Amendments were made to the Burma Frontier Force Act, the Military Police Act and the Burma Army Act which were either routine amendments or amendments necessitated by the altered circumstances then prevailing. By the City of Rangoon Municipal (Loans) (Suspension of Provisions) Act (I, 1944) certain provisions of the City of Rangoon Municipal Act relating to loans were suspended. By Act II of 1944 a Women's Auxiliary Service (Burma) was raised. The Requisitions (Termination and Compensation) Act (III, 1944) provided for the calculation of compensation in respect of requisitioned immovable properties by reference to the period during which the use thereof was not interfered with by enemy action.

1945

THIRTY-FOUR Acts were passed during the year 1945, but before the end of the year the seat of the Government had been transferred to its headquarters at Rangoon. The lawful Government was re-established in Burma on October 16, 1945, and all the Acts passed after Burma Act XXVII of 1945 were passed after the re-establishment of the lawful Government in Rangoon.

While in Simla opportunity was taken to examine some of the legislation in force in Burma with a view to its repeal or consolidation and enactments like the Repealing and Amending Act (II, 1945), the Burma Patents and Designs Act (V, 1945) and the Police Act (VI, of 1945) were the result.

By reason of the war many persons had to relinquish possession of their property, both movable and immovable, but it was obvious that the owners thereof had no intention of abandoning their rights thereto. Consequently, by the Custodian of Movable Property Act (X, 1945) and the Lands Disputes (Summary Jurisdiction) Act (XXII, 1945) a summary remedy was provided whereby possession of movable and immovable properties, the possession of which had to be temporarily relinquished, could be retaken.

Again, much of the old judicial machinery required to be reorganized and by the Courts Act (XIV, 1945) a new system of Courts with jurisdiction personal to the Judges was established. The Code of Criminal Procedure (Amendment) Act (XIII, 1945) pruned the Code of such of the provisions as had weighed heavily against the prosecution and the Rangoon Small Cause Court (Amendment) Act (XV, 1945) converted the old Rangoon Small Cause Court into a City Civil Court with considerably enhanced jurisdiction. By the Liabilities (War-Time Adjustment) Act (XIX, 1945), which is based on an English Act with a similar name, debtors were enabled to apply to the Court for a scheme of adjustment for tiding over difficulties created by war circumstances. The Companies (War-Time Provisions) Act (XXV, 1945) afforded similar relief to companies. It also provided for the reconstruction of lost records.

The Money Lenders Act (XXVII, 1945), which is a new measure for Burma, provided for the registration of moneylenders and for the regulation of moneylending, a piece of legislation long required in Burma. By Act XXVI, 1945, a Military Nursing Service for Burma was created and Act XXXI of 1945 had the effect of continuing all requisitions made during the period of the Burma Military Administration which preceded the return of the lawful Government. The Legislative Council (Privileges of Members) Act (XXXII, 1945) prescribed the privileges which members of the Legislative Council established after the reoccupation enjoy. This Council acts in an advisory capacity.

The remaining Acts passed during 1945 are of minor importance, but this article may appropriately come to a close with a reference to the Burma Indemnity and Validating Act (XVIII, 1945) whereby legal protection was given to military authorities in respect of acts done by them during the period of military administration.

VII. EASTERN COLONIES

1. CEYLON

[*Contributed by* W. Ivor Jennings, Esq., LL.D.]

In 1945 Ceylon became the main base for the recapture of Malaya, and emergency legislation was limited to a few minor amendments of earlier legislation. The State Council passed 55 Ordinances, but most of them were of small importance. Its attention was directed more to the problem of constitutional reform. The Soulbury Commission was in the Island for the first four months of the year, but none of the Ministers and few of the majority of the Council gave evidence. Indeed, the Minister for Local Administration introduced the Ministers' Draft Constitution, submitted in 1944, less the clauses imposing restrictions on self-government. The Bill was passed as the Sri Lanka Bill but the Royal assent was refused. The Leader of the Council had already been invited to London, and his representations secured modifications of the Declaration of 1943, which bound the Soulbury Commission. When the Commission's Report was issued, it was found that the main lines of the Ministers' Draft had been approved, with the addition of a Second Chamber on the Burma model. The Report, with the modifications secured by the Leader of the Council, was approved by His Majesty's Government in a White Paper, and the proposals of this document were approved by

the Council in November by 51 votes to 3. The consequential legislation was in preparation at the end of the year.

Local Government.—The chief enactment of the year was the Local Government Service Ordinance No. 43, which set up an incorporated Local Government Service Commission consisting of the Commissioner of Local Government as chairman and four other persons (not being members of the State Council or of any local authority) nominated by the Minister for Local Administration. The nominated members hold office for three years and receive fees and travelling allowances. All (or nearly all) of the officers and servants of the municipal councils, urban councils, sanitary boards, village committees, provincial road committees and district road committees are transferred to a unified Local Government Service and are deemed to be in the service of the Commission, which is empowered *inter alia* to appoint, promote, transfer, dismiss, interdict and punish members of the Service. The Commission may also classify the Service into grades and fix salary scales, establish a Provident Fund and Widows' and Orphans' Pension Fund, make leave regulations, etc.

Rural Courts.—The Bill which became the Village Tribunals Ordinance No. 12 was reserved for the Royal assent and was amended by Ordinance No. 13 before it took effect. The chief effect of the amending Ordinance is to convert the Village Tribunals into Rural Courts. The main Ordinance consolidates and amends the Ordinances relating to Village Tribunals. The Rural Courts now have civil jurisdiction up to one hundred rupees (about £7) and criminal jurisdiction over a wide variety of minor offices: but the Attorney-General may usually move a criminal case into a Magistrate's Court. Neither advocates nor proctors may appear in any case, and the maximum punishment is 14 days or a fine not exceeding Rs. 50. Appeal lies in every case to the District Judge.

Census.—As there had been no full census since 1921 and no enumeration since 1931, it was decided to have a comprehensive census in 1946, and for this purpose the Census Ordinance was amended by the Census (Amendment) Ordinance No. 6. The Governor was given a much wider power to direct a census of population, agriculture (including animal husbandry), trade, labour, industry or commerce. The consequential amendments enabled the necessary information to be collected not merely about the number of persons in residence, but also the number in employment, etc.

Wages Boards.—The only provision of any particular importance in the Wages Boards (Amendment) Ordinance No. 19 is a new s. 51A, making the wages of workers a first charge on the assets of a trade coming within the Ordinance.

Indigenous Medicine.—The College of Indigenous Medicine having become a Government Department, the Indigenous Medicine (Amendment) Ordinance No. 27 transfers the officers and servants of the College to the public service and provides for the application to them of Public Service Regulations.

Offences against Religion.—Under the Penal Code (Amendment) Ordinance No. 40 an offence is committed by anyone who " with the deliberate and malicious intention of outraging the religious feelings of any class of His Majesty's subjects, by words, either spoken or written, or by visible representation, insults or attempts to insult the religion or the religious beliefs of that class."

Finance.—Income Tax has been raised by the Income Tax Amendment Ordinance No. 34 on all higher incomes. It now begins at one per cent. after the first Rs. 6,000 and goes up to 30 per cent. after Rs. 186,000.

A new loan of Rs. 200 million has been authorized by the National Development Loan Ordinance No. 32 to cover expenditure on emergency services and national development. Large sums have also been made available for national development out of increased taxation so that, with the large sterling balances in London, the Island will start responsible government in 1947 with ample funds at the disposal of His Majesty's Government in Ceylon.

The long-standing dispute over Leave Passages and Holiday Warrants will presumably continue until the Donoughmore Constitution expires. The Governor has again had to use his independent legislative powers in the Public Services (Additional Financial Provision) Ordinance No. 42.

2. BRITISH MALAYA

[*Contributed by* Dr. A. de Mello.]

The Russian invasion of Korea and the atomic bomb launched by General McArthur's Air Forces upon Hiroshima having dealt the final blow to Japan's dreams of conquest, the British reoccupation of Malaya went through two phases —first, the British Military Administration up to April 1, 1946 ; and then the Civil Administration. This Review is devoted to the Legislation of the first of these periods.

The Proclamation issued by the Supreme Allied Commander, South-East Asia (Admiral Lord Louis Mountbatten), on August 15, 1945, from his headquarters in Kandy (Ceylon), established a Military Administration for the whole of Malaya, comprising as well (*a*) the Settlements of Singapore, Penang and Malacca, and British waters adjacent thereto, as (*b*) the Malay States of Perak, Selangor, Negri Sembilan, Pahang, Johore, Kedah, Kelantan, Trengganu and Perlis, and their territorial waters. This Proclamation preserved the laws and customs existing immediately prior to the Japanese occupation, and all rights and properties, subject, however, to investigation of those acquired during the Japanese occupation and to " such action as justice required " (s. 5). It also did away with all Courts and tribunals other than the Military Courts established[1] under the British Military Administration (s. 6); and, lastly (s. 7), declared that all legislative enactments whatsoever of the late Japanese Military Administration should cease to have any effect.

Subsequent Proclamations (numbering altogether 56 in Singapore and 76 in the Malay States) were issued (i) at sea, prior to the arrival on September 5, 1945, of the British Forces and *de facto* reoccupation of Malaya, and thereafter, up to September 30, 1945, on land, by the General Officer Commanding the Military Forces ; (ii) from October 1, 1945, to March 31, 1946, by the Chief Civil Affairs Officer or one of his deputies. The more important of these Proclamations are here summarized.

Legal and Judicial.—Five Proclamations dealt with legal matters (Military Courts, Special Courts, Offences against the Forces, Looting, Explosives and Firearms) and two with commercial matters (Currency and Moratorium). The " Military Courts Proclamation " established, for the period of the Military Administration, Military Courts for administering *criminal* law, *viz.* (*a*) Superior Courts, and (*b*) District Courts. The trial of *civil* suits was held in abeyance, as no Courts were empowered to deal with them.

(*a*) A *Superior* Court might sit either as a " British Officer Court " or as an " Assessor Court " : it consisted of a President, assisted, in the former case, by two British Officers appointed by the General Officer Commanding, and, in the latter, by two Assessors selected by the President. It had jurisdiction (s. 5) generally over offences against any Proclamation, against any written law of the country, or against the laws and usages of war, except over (*a*) persons entitled, if captured, to be treated as prisoners of war, and (*b*) members of the British or Allied Forces ordered by the General Officer Commanding to be tried by Court Martial. It could pass any sentence authorized by law, save that a sentence of death had to be confirmed by the General Officer Commanding.

A " British Officer Court," in particular, was vested with jurisdiction to try persons charged with offences against—

[1] By the " Military Courts Proclamation " (see *infra*).

(1) the Laws and Usages of War ; (2) the Offences against the Forces Proclamation ; (3) the Defence Regulations ; (4) the Penal Code c. VI (ss. 121 to 130—Offences against the State) ; (5) written Laws relating to treason, treachery, sedition[2] or looting.[3]

An " Assessor Court," in particular, had jurisdiction to try offences not specified in the preceding paragraph.

The jurisdiction of *District* Courts was similar to the general jurisdiction of a Superior Court, but excluded offences punishable with death.

The Military Courts Procedure Rules, more succinct and compendious than the Criminal Procedure Code (c. 21 of the Straits Settlements Laws ; c. 6 of the F.M.S. Laws) which had been in force prior to the outbreak of war, abolished (i) Preliminary Inquiries by Magistrates into charges triable by the High Court ;[4] (ii) Trial by Jury ; and (iii) for the provisions as to Appeals and Points Reserved for the opinion of the High Court were substituted provisions for Review ; (iv) Directions in the nature of *habeas corpus* were also abrogated.

In addition to the two types of Military Courts above mentioned, the " Special Courts Proclamation " instituted a Special Court of a Commissioner for holding Preliminary Inquiries in respect of " collaboration offences," which were defined as offences against—

(1) the Treason Act, 1351 ;
(2) the Penal Code, ss. 121, 121B, 121C, and 122 ;
(3) S. 4 of Sedition Ordinance of the Straits Settlements, 1938, and ss. 3 and 4 of similar Enactments in the Malay States ;
(4) S. 3, War Offences Ordinance, 1941 (Straits Settlements) ;
(5) Regulation 31, Straits Settlements Defence Regulations, 1939.

The " Looting Proclamation " made liable even to the death penalty any person who—

"(*a*) Steals any article from premises which have been damaged by warlike operations or vacated by reason thereof or in consequence of any authorised directions given for the purpose of protecting life or property from actual or apprehended operations of a warlike nature ; or

"(*b*) Steals any article which has been left exposed or unprotected as a consequence of warlike operations ; or

"(*c*) In any area which has been subjected to attack, damages any property, commits an assault, or is found with any offensive weapons or housebreaking implement with intent to commit any seizable offence."

The " Offences against the Forces Proclamation " specified various offences against the British and Allied Land, Naval and Air Forces, entailing punishments ranging from fines of $2,000 to imprisonment for 3 years, or to death. The provision which, though perhaps suggested by experience in other lands, gave rise to most criticism was that (s. 6(1)(*e*)) relating to possession of military property or equipment, and enacted in the following terms:—

"(1) Any person who—

(*e*) acquires by gift, purchase or exchange, or wrongfully receives or has in his possession or keeping any article of military equipment, clothing, rations, or stores, or any other property belonging to, or of a type or pattern issued to the forces:

shall on conviction be punishable with rigorous imprisonment for a term not exceeding 3 years, or with fine not exceeding $2,000, or with both such imprisonment and fine."

The harshness and the wide terms of this section were aggravated by the presumption as to " wrongful possession," and the heavy *onus* cast upon the accused of disproving it, by sub-s. (6) in the following terms:—

[2] *Vide* " Special Courts Proclamation " (*infra*). [3] *Vide* " Looting Proclamation " (*infra*).
[4] Except in charges of " collaboration," for which a Special Court (of a Commissioner) was appointed.

"(2) Any person found in possession of any article of military equipment, clothing, rations or stores or of any other property belonging to or of a type or pattern issued to, the Forces or to any member thereof shall until the contrary be proved, be deemed to be wrongfully in possession thereof within the meaning of paragraph (*e*) of subsect. (1) of this section and the burden of proving the contrary shall lie upon such person."

This singular departure from the presumption of innocence, so well-established in English law, was hardly, if at all, tempered by the substitution (at the end of January, 1946) of the following amended text for the above-mentioned sub-s. (2):—

"(2) Where proceedings under this Proclamation are taken against a person in respect of acquiring wrongfully, receiving or having in his possession any of the articles referred to in paragraph (*e*) of subsection (1) he shall not be liable to conviction if he proves—

(*a*) that having taken all reasonable precautions against committing an offence against this Proclamation he had not at the time of committing the alleged offence reason to suspect that the article was at the said time an article of military equipment, clothing, rations or stores or an article belonging to or of a type or pattern issued to the Forces ; and

(*b*) where he obtained the article from some other person that on demand by or on behalf of the prosecutor he gave all the information in his power with respect to the person from whom he obtained it and as to any mark applied to the article when he obtained it."

The "Explosives and Firearms Proclamation" was necessitated by the Japanese having, prior to their capitulation, copiously furnished arms and ammunition to the indigenous populations of South-East Asia. It required all persons possessing explosives or firearms to surrender them by the end of October, 1945, and, in default, made the possessor liable to 3 years' imprisonment, or a fine of $500, or both, in respect of each offending article. The alarming proportions attained by lawlessness led to the tightening of the law by the "Public Order and Safety Proclamation" early in the year 1946, by making the *carrying* of arms an offence punishable with death or penal servitude for life, or imprisonment up to 10 years or with fine.

Commerce, Currency and Land-dealings.—On the commercial side, two important Proclamations dealt with the currency and proclaimed a *moratorium* in respect of debts and dealings in land. The "Currency Proclamation" demonetised (s. 2) all currency-notes and coins other than those issued by the Government of the Straits Settlements or by the Board of Currency Commissioners for Malaya established under the Currency Ordinance No. 23 of 1938 (of the Straits Settlements): it also required the possessors of currency-notes of the denominations of $1,000 and $10,000 to declare the origin and legal consideration for their acquisition, and subjected them to an inquiry as to their *bona fides* (s. 4). This latter provision was apparently inspired by the fact that, at the time of the Japanese onslaught upon Malaya in February, 1942, the Government currency repositories had been looted. The former provision (s. 2), though unquestionable as an act of sovereignty, occasioned, by its suddenness, widespread hardship among those whose earnings, and therefore savings, during the 3½ years of Japanese occupation had been perforce in the form of Japanese currency-notes. The entire absence of other resources, the non-arrival of consumer-goods and general unemployment aggravated the lot of the Malayan population, who, accordingly, now anxiously hope, from the Treaty of Peace still to be concluded with Japan, for some measure of compensation for the myriads of currency-notes that the Japanese Military Authorities palmed off upon the credulous public.

The "Moratorium Proclamation" suspended until further order payment

of debts and bills of exchange and the enforcement of legal rights and remedies in relation thereto (s. 5) ; but (s. 6) such suspension does not apply to any debt (*a*) incurred after the coming into force of the Proclamation ; (*b*) less than $50 in respect of any one transaction ; (*c*) due in respect of (i) salary, wages, professional services, or work and labour done ; (ii) rent for 12 months or less ; (*d*) due to any Government or Local Authority.

Dealings in land, too, are suspended during the period of the moratorium, except as to (*a*) leases or tenancies for a term of 12 months or less ; (*b*) liens or equitable mortgages by deposit of title-deeds with a bank.

The Government may, however, in special cases grant exemptions, whether in respect of debts, bills of exchange or land transactions.

It is interesting to observe that the " Military Administrations (Delegation of Powers) Proclamation " of October 1, 1945, whereby the Chief Civil Affairs Officer and his deputies were empowered to conduct the Military Administration of the country, substituted, in lieu of the Colony of the Straits Settlements, on the one hand, and the Malay States on the other, a new division of Malaya recast as follows: (*a*) the *Malay Peninsula Division,* comprising the Settlements of Penang and Malacca, as well as the Malay States of Perak, Selangor, Negri Sembilan, Pahang, Johore, Kedah, Kelantan, Trengganu and Perlis, and all islands and territorial waters forming part thereof ; (*b*) the *Singapore Division,* comprising the Settlement of Singapore.

This prepared the way to the Straits Settlements (Repeal) Act, 1946, and the two Orders of the King in Council issued thereunder on March 27, 1946. Almost simultaneously with the new statute and these Orders in Council, the Essential Regulations Proclamation, by way of transition from the Military Administration to the Civil Administration which was to take over on April 1, 1946, empowered the Chief Civil Affairs Officer to legislate by Regulation on matters essential to the safety and welfare of the inhabitants.

3. ADEN

[It is hoped to supply a review in the next issue.]

4. MAURITIUS

[*Contributed by* FRANCIS HERCHENRODER, ESQ., *Procureur-General.*]

1944

FORTY-TWO Ordinances were passed by the Council of Government and assented to by the Governor between January 25 and December 19, 1944.

The majority of these Ordinances deal with matters of domestic concern, of which the following are the more important:—

Census.—No. 1 provides for the taking of a census of the population of Mauritius and the Dependencies thereof in the year 1944, and for measures incidental thereto.

Commissions of Inquiry.—No. 7 enables the Governor to appoint Commissions of Inquiry into any matter of public interest or concern and provides the machinery for the setting up of such Commissions.

Education.—No. 12 consolidates, with noteworthy modifications, the law governing education and educational establishments in the Colony.

Tobacco.—No. 15 consolidates the law governing the manufacture of tobacco in the Colony and the collection of excise duty on any such tobacco.

Industrial Courts.—No. 17 provides for the establishment of special Courts in the Colony with exclusive jurisdiction over matters connected with industry and labour.

Liquor.—No. 35 introduces important modifications of form and substance in the law governing the manufacture and sale of liquor in the Colony.

Licences.—No. 36 consolidates the licence laws of the Colony and codifies them into one single enactment whilst effecting various changes in tune with present-day conditions.

Sugar.—No. 3 imposes a special export duty on sugar of the 1943–44 crop, the proceeds of which are to be applied partly to repay loans made to the sugar manufacturers by virtue of the Sugar Industry Loan Ordinance, 1930, and partly to the General Revenue of the Colony.

No. 23 imposes an additional export duty on sugar of the 1943–44 crop, the proceeds of which are to be paid over to His Majesty's Government as a gift from the planters of the Colony for the purpose of providing a sum of Rs. 45,306 towards the cost of a Spitfire Squadron and of contributions to the Mauritius Organization in aid of the Allied Forces.

Registration of Agricultural Chemists.—No. 10 consolidates, with a number of important modifications, the law governing the registration of Agricultural Chemists in the Colony.

Agricultural Bank.—No. 11 consolidates the law governing the Agricultural Bank, the management thereof and the grants of loan thereby.

Municipality and Town Boards.—No. 27 safeguards the pension rights of such officers and servants of the Municipality and Town Boards as are performing military service with His Majesty's Forces.

Statute Law Revision.—No. 29 provides for the preparation and publication of an edition of the laws of the Colony revised up to date.

1945

SIXTY-NINE Ordinances were passed by the Council of Government and assented to by the Governor between February 6 and December 20, 1945.

The majority of these Ordinances deal with matters of domestic concern, of which the following are the more important:—

Courts.—No. 5 consolidates into one enactment the law relating to the constitution, organization and jurisdiction of the Courts of the Colony and also deals with certain other matters such as trial by jury, evidence, and, to a certain extent, procedure.

No. 41 requires judgments given by the Courts of the Colony in criminal matters together with the reasons thereof to be recorded in writing.

Public Meetings and Processions.—No. 9 regulates the holding of public meetings and processions—a matter hitherto governed by the Penal Code and other special enactments, the provisions of which were considered out of date.

Sworn Weighers.—No. 23 recasts the law governing the appointment of sworn weighers for the weighing of goods liable to customs duties.

Sales by Auction and Appraisement.—No. 24 consolidates the law relating to sales by auction and appraisement.

Brokers.—No. 25 consolidates the law relating to Sworn and Exchange Brokers.

Labour.—No. 43 gives effect to certain recommendations made at the twenty-sixth session of the Industrial Labour Conference held in Philadelphia in 1944 with regard to the employment of children and young persons.

No. 44 prohibits the employment of a child under twelve as a labourer in any place of employment.

Co-operative Societies.—No. 51 provides for the constitution and control of Co-operative Societies.

Firearms.—No. 53 makes important amendments to the law relating to firearms with the object of securing a more effective control over the possession thereof.

Shops.—No. 56 amends the Shops Ordinance, 1942, so as to bring its provisions into line with modern legislation on the subject.

Corporal Punishment.—No. 62 regulates the infliction of corporal punishment in accordance with modern standards.

Crown Lands.—No. 63 makes Crown Lands imprescriptible by law.

Hurricane Loan.—Nos. 2 and 28 provide for the grant of loans to such persons as suffered loss of, or damage to, property through the hurricanes which visited the Colony in January and February, 1945.

Distilleries.—No. 14 validates a resolution of the Council of Government whereby the excise duty on Colonial Spirits was raised.

Poll Tax.—No. 34 makes a few amendments of substance to the Graduated Poll Tax Ordinance, 1939.

Companies.—No. 35 provides for the payment of an additional tax by companies over and above the Poll Tax to which they are liable.

Succession Duties.—No. 40 provides for the remission of death duty in the case of persons killed on active service.

Coinage.—No. 66 legalises the change of fineness of certain coins.

Women's Volunteer Corps.—No. 1 provides for the raising of a Women's Volunteer Corps for service outside the Colony.

Council of Government.—No. 18 enables members of the Council of Government serving with His Majesty's Armed Forces, or otherwise engaged on His Majesty's service, to sit and vote in such Council.

Public Officers' Guarantee Fund.—No. 37 repeals the Public Officers' Guarantee Fund (Consolidation) Ordinance, 1913, and authorizes refunds to contributors.

Reinstatement in Civil Employment.—No. 42 provides for the reinstatement in civil employment of persons who have served with the Armed Forces of the Crown.

Sugar Industry.—No. 59 provides for the establishment of a pension fund for the benefit of Sugar Estates personnel and persons employed in the sugar industry of the Colony.

Local Bodies Pensions.—No. 60 consolidates and amends the law relating to the grant of pensions to officers and servants of Township Boards.

Sugar Cane Plantations.—No. 69 provides for the control of the plantation and propagation throughout the Colony of any variety of sugar canes.

5. SEYCHELLES

[*Contributed by* The Hon. J. M. Homer-Vanniasinkam, *Legal Adviser.*]

1942

Eighteen Ordinances were enacted during the year 1942, the most important of which are the following:—

Fisheries.—No. 3 consolidates the law relating to fisheries, and gives effect to certain recommendations advocated by Mr. J. Hornell in his Report on the Fisheries of Seychelles (1927) in regard to the use of nets in the fishing reserves of the Colony. Special provision has been made for the catching in the Reserves of (*a*) bait by means of the mosquito-net of a length not exceeding 2 metres and a depth not exceeding 1 metre ; (*b*) sardines, sprat and anchovy whenever they appear in shoals by means of net of small mesh of a length not exceeding 20 metres and a depth not exceeding 2 metres, the square meshes of such net measuring not less than $1\frac{1}{4}$ centimetres from knot to knot ; (*c*) mackerel, small carangue, mullet and lubine whenever they appear in shoals by means of net of larger mesh of a length not exceeding 30 metres and a depth not exceeding 2 metres.

Export of Copra.—No. 8 consolidates the law relating to the manufacture and export of copra. Investigations made by the Department of Agriculture revealed that substantial quantities of low-grade copra were being exported from the Colony. The Ordinance is designed to control the manufacture and export of

copra manufactured for sale or export. Provision is made for the seizure of any copra manufactured for sale which, after analysis, is declared by the proper authority to be unfit for export.

Income Tax.—No. 10 amends the Income Tax Ordinance, 1923, by increasing the rate of income tax payable by both individuals and companies. This Ordinance is of temporary application and will expire on December 31, 1947.

Rent Restriction.—No. 10 restricts the increase of rent in respect of dwelling-houses, offices or other buildings or premises in which persons dwell or work or are employed. It provides for the appointment of a Rent Board which functions as a Court whose orders shall be conclusive and shall not be contested in any Court.

Sale of Produce.—No. 18 consolidates the law relating to the sale of licensable produce. It provides a system of permits for the transport of local produce and is designed chiefly to prevent the illicit dealing in licensable produce by persons who are not licensed dealers. Power is also granted for the arrest of persons transporting licensable produce without permits and for the entry and inspection of premises where such produce is stored. Special provisions have also been made with regard to vanilla pods.

1943

Six Ordinances were passed during the year 1943, the most important of which are:—

War Savings Certificates.—No. 1 provides for the issue of Seychelles War Savings Certificates, the money raised thereby to be lent to His Majesty's Government in the United Kingdom to be utilized for the prosecution of the war.

Trade Unions.—No. 4 regulates trade unions and trade disputes. No. 5 has been enacted as complementary legislation to Ordinance No. 4. It provides machinery for the settlement of trade disputes by either party to a dispute reporting it to the Governor who may refer the dispute to an Arbitration Tribunal. It further provides that where the parties to a dispute do not consent to an arbitration, the Governor may, whether the dispute is reported to him or not, refer the dispute to a Board of Inquiry.

1944

Twenty-two Ordinances were enacted during the year 1944, the most important of which are the following:—

Excess Profits Tax.—No. 7 repeals the Excess Profits Tax Ordinance, 1941, which experience in the administration of the Ordinance has shown to be defective in certain respects. The opportunity was therefore taken of enacting a new Ordinance based on Mauritius Ordinance No. 40 of 1941.

Education.—No. 15 repeals the Ordinances dealing with education which have been found to be no longer suitable in view of the new Education Plan of the Colony, and enacts a complete set of provisions which provide for the establishment of Government Schools and of an Advisory Council of Education, for the registration of teachers and schools, for the giving of religious instruction in schools, for the compulsory attendance of children at schools and generally for the effective control of the educational system of the Colony by the Director of Education.

Military Units.—No. 16 provides for the establishment on a voluntary basis of military units primarily for the defence of the Colony. It further provides that the Pioneer Companies and Pioneer Corps raised in Seychelles at the commencement of the war shall be deemed to be units established under the Ordinance except as regards the terms of attestation of the members of such companies or corps.

No. 17 empowers the Governor to order that any military force established in the Colony be placed under the orders and directions of the Army Council.

Sworn Weighers.—No. 20 provides for the appointment of sworn weighers,

and empowers them to certify the correct weights of all goods and merchandise of every description weighed by them at the request of importers and exporters.

1945

TWENTY-NINE Ordinances were passed during the year 1945, the most important of which are:—

Barristers and Attorneys.—No. 12 amends the Barristers and Attorneys Ordinance, 1923, by the addition of a new provision relating to a system of articled clerkships for a period of six years to local Attorneys. It also enables the Chief Justice to make rules for articled clerks relating to the course of studies and the examinations which will have to be passed by them before they are qualified to practise as Attorneys in Seychelles.

Holidays.—No. 17 repeals the Holidays Ordinance, 1902, the Schedule of which has been out of date for a considerable time, and re-enacts the main provisions of that Ordinance with a new Schedule of Holidays which is up to date.

Food Production.—No. 18 consolidates the Food Production Ordinance, 1940, and the Defence Regulations relating to the compulsory growing of food crops by landowners. It also provides that labourers working on any agricultural property which is more than ten acres in extent shall be entitled at their request to cultivate for their own benefit not less than half an acre on such property.

Statutory Reprints.—No. 19 authorizes the Legal Adviser on the order of the Governor to prepare, and the Government Printer to publish, consolidated reprints of the written laws of Seychelles and to incorporate in such reprints all amendments in force on the date of such reprint. This Ordinance has been specially enacted so as to commence the work of the consolidation of the laws of Seychelles, the first and only edition of which was published by instalments in three volumes dated 1904, 1905 and 1907.

Short Titles.—No. 20 authorizes the Clerk to the Legislative Council to insert in the short title of any Ordinance which has been assented to and signed by the Governor the serial number assigned to that Ordinance.

Labour.—No. 25 supersedes all earlier legislation dealing with the employment of servants throughout the Colony with the following exceptions: (i) it does not apply to the Outlying Islands ; and (ii) it does not apply to the employment of labourers in the Colony for service in the Mauritian Islands. It provides for the appointment of a Labour Officer whose duty it will be to supervise and control the employment of servants in the Colony and to see that the provisions of the Ordinance are complied with.

No. 26 enacts some of the provisions of the former together with special provisions which apply to labourers who are employed on the Outlying Islands, such as housing, hospitals and shops. It also confers a civil jurisdiction on Justices of the Peace to inquire into matters arising under any contract of service where the amount in dispute does not exceed one hundred rupees, and a criminal jurisdiction which is in addition to the provisions of the Justices of the Peace Ordinance, 1901.

Ordinance No. 27 deals with the recruitment of workers.

IX. WEST AFRICA

1. GAMBIA

[It is hoped to publish the review in the next issue.]

2. GOLD COAST

[*Contributed by* RAYMOND BROWNE, ESQ., *Solicitor-General.*]

DURING the year 1945 thirty-eight Ordinances were passed, of which twenty-one

were amending Ordinances. The following Ordinances may be briefly described:—

Royal West African Frontier Force.—No. 3 permits the disciplinary provisions of the Army Act to be applied to African soldiers as an alternative to the disciplinary provisions of the Royal West African Frontier Force Ordinance (c. 44) when such soldiers are serving with British, Imperial or Indian troops or are serving under the orders and directions of the Army Council.

Valuation of Premises.—No. 10 provides for the valuation of premises in any place to which the Ordinance is applied as a preliminary to the grant to such place of some form of municipal government.

Industrial Schools.—No. 11 establishes schools and institutions for the detention, reformation and training of youthful criminals.

Town and Country Planning.—No. 13 makes better provision for urban and rural planning.

Fisheries.—No. 20 is designed to restrict uneconomic exploitation of the fishing industry of the Gold Coast.

Repatriation of Convicted Persons.—No. 22 allows in certain circumstances for a court to order the return to his own community in the Gold Coast of a person convicted of a more serious crime.

Immigrant British Subjects Deportation.—No. 26 provides for the deportation from the Gold Coast, in certain circumstances, of criminal, undesirable and destitute British subjects.

Sekondi-Takoradi Town Council.—No. 29 establishes a modern form of municipal government for the township of Sekondi-Takoradi.

Wireless Telecommunication.—No. 30 makes better provision for the control of wireless telecommunication.

Reinstatement in Civil Employment.—No. 31 provides for the re-employment in civil life of ex-service men.

Monuments and Relics.—No. 34 provides for the establishment of a Commission to protect Gold Coast objects of cultural interest.

During 1945 use was made in matters of an urgent and temporary nature of the power of legislation conferred upon the Governor by the extension to the Gold Coast of the United Kingdom Emergency Powers (Defence) Acts, 1939 and 1940, but with the gradual change in the war situation and the eventual cessation of hostilities such use was naturally less than in previous years.

3. NIGERIA

[*Contributed by* LIONEL BRETT, ESQ., *Crown Counsel.*]

1944

THIRTY-SEVEN Ordinances were passed in the year.

Labour.—No. 21 provides a simple method for settling trade disputes, either existing or apprehended, by conciliation. Powers corresponding to those vested in the Minister of Labour and National Service under the Conciliation Act, 1896, are vested in the Commissioner of Labour.

No. 22 enables the Governor to vary an order fixing a minimum wage in any occupation without considering the recommendations of a Labour Advisory Board, though such recommendations must still be considered before a first order is made. All industrial workers under the age of 55 are also made subject to registration, whereas previously only male non-Europeans between the ages of 18 and 55 were subject. More extensive powers for enforcing the registration of employers have been given to the Governor, and the penalties for the contravention of orders dealing with general conditions of employments have been increased to a fine of £100 or one year imprisonment, or both.

Royal West African Frontier Force (Nigeria Regiment).—The original Ordinance controlling the Force has been amended in various ways by Ordinance No. 24. Ss. 2 and 3 lay down that the procedure at courts martial of all kinds shall be in accordance with the Army Act and the Rules of Procedure made thereunder. These sections must, however, be read in conjunction with s. 2(*b*) of the Evidence Ordinance, 1943, by virtue of which the Evidence Ordinance applies to General and District Courts Martial, but not to Field General Courts Martial. As Field General Courts Martial can only be held on active service, it may be hoped that the point will never arise. A number of amendments made by regulations under the Emergency Powers (Defence) Acts, 1939 and 1940, have also been incorporated permanently in the Ordinance.

Sale of Liquor.—Under the Liquor Ordinance certain areas may be declared prohibited areas, which has the effect of prohibiting the sale of intoxicating liquor, other than native liquor, within such areas to any native of Nigeria. No. 4 enables natives of Nigeria who do not themselves come from prohibited areas to purchase liquor in a prohibited area.

Cinematographs.—Under the Cinematograph Ordinance, 1933, the Censorship Committee could only grant or refuse a licence for the exhibition of a film, and could make no distinction between different parts of the country. No. 31 enables the Committee to license a film for certain areas or places only. It also provides for the licensing of vehicles or vessels from which films are to be exhibited, a very necessary provision under local conditions.

Coroners.—The new Coroners Ordinance No. 33 forms a part of the programme of judicial reform which started in 1943 with the Supreme Court Ordinance and Magistrates' Courts Ordinance. Points of interest include the abolition of coroner's juries, and of the power to commit for trial on a coroner's inquisition. All inquisitions are to be forwarded to the Supreme Court for review, and the Supreme Court may of its own motion, or on application by or on behalf of the Attorney-General, either direct an inquest to be reopened, or quash the verdict and substitute another, or quash the inquest with or without ordering a new inquest. In the Northern Provinces the main provisions of the Ordinance will only have effect where the deceased was a non-native of Nigeria, and in areas where it has been applied either absolutely or in respect of specified classes of persons, by order in council ; in other cases an investigation by the village headman will take the place of a coroner's inquest.

Prostitution.—In order to check the traffic in women and children, the Criminal Code has been amended by adding various new sections. Ss. 222A and 222B, based on the provisions of ss. 2 and 3 of the Children and Young Persons Act, 1933, are for the protection of children under the age of 13 (not 16 as in England). S. 225A makes it an offence for a female, as well as a male, to trade in prostitution, and s. 225B extends the category of those who may be convicted of keeping a brothel to include, in certain circumstances, a lessor or landlord, and a tenant or occupier, even where such person is not himself the keeper of the brothel. S. 233A enables the Governor in Council to order any non-native who is convicted of an offence involving the defilement of women or girls to be deported. The category of idle and disorderly persons under s. 249 is extended to include common prostitutes loitering and persistently soliciting for the purposes of prostitution, who thus become liable to one month's imprisonment.

1945

SEVENTY-THREE Ordinances were passed in the year.

Judicial Reform.—A series of Ordinances of 1945 complete the programme of judicial reform begun in 1943. The Magistrates' Courts (Civil Procedure) Ordinance No. 38, based on the County Courts Act, 1934, introduces a special form of procedure in civil matters for use in Magistrates' Courts which had pre-

viously followed a procedure identical with that in the Supreme Court. A schedule to the Ordinance contains a number of forms taken from the English County Court Forms, 1936–9.

The Recovery of Premises Ordinance No. 39, and the Sheriffs and Enforcement of Judgments and Orders Ordinance No. 40, are based on English practice and apply both in the Supreme Court and in Magistrates' Courts.

The Magistrates' Courts (Appeals) Ordinance No. 41 deals with appeals both in civil and criminal matters. Appeals are heard by a single judge of the Supreme Court, sitting as an Appeal Court.

In criminal matters the prosecutor may appeal against any acquittal or dismissal on the grounds that it is erroneous in law or in excess of the jurisdiction of the magistrate. By a somewhat unusual provision, a person who has pleaded not guilty and been convicted can only appeal against his conviction (s. 5), but by doing so gives the Appeal Court the power to increase his sentence (s. 43(*a*) (ii)); only a person who has pleaded guilty can appeal against sentence alone (s. 6). Proceedings on appeal do not take the form of a re-hearing, but the Appeal Court in its discretion may either hear further evidence or remit the case to the Magistrate's Court with a direction to hear further evidence. On an appeal against conviction the Appeal Court has power to confirm or reverse the finding and sentence, or order a new trial, or commit the appellant for trial; it may also substitute a special finding of guilty but insane. A magistrate can only state a case before decision, except that, where no public officer is a party, the Attorney-General may require a case to be stated at any time within six months after decision is pronounced. A further appeal lies to the West African Court of Appeal from the Appeal Court, which may also reserve a case for the consideration of the W.A.C.A.

The Criminal Procedure Ordinance No. 42 is a comprehensive Ordinance of 466 sections which sets out the procedure to be followed in criminal cases both before Magistrates' Courts and before the Supreme Court, from complaint to sentence.

The judicial-reform Ordinances of 1943–5, together with the Rules of Court issued under them, now provide what is almost a complete codification of the law relating to jurisdiction, procedure, evidence, and the enforcement of judgments in all matters that come before the Supreme Court or the Magistrates' Courts. Certain matters remain, which come rarely before the courts, and in which the substantive law and procedure is laid down as being that of the English Courts; examples are divorce where the marriage was monogamous (the dissolution of polygamous marriages, whether Mahommedan or Pagan, comes under the Native Courts); matters of Admiralty jurisdiction; ex-officio informations by the Attorney-General; and, presumably, the orders of mandamus, certiorari, prohibition, etc.

Labour.—The Labour Code Ordinance No. 54, divided into 16 chapters and 248 sections, provides an up-to-date and comprehensive charter for labour which incorporates recommendations from a number of international conventions, besides drawing freely on the results of experience in other colonial territories, in particular the Straits Settlements, Kenya and Tanganyika.

Chapter headings include the Truck System; Oral Contracts; Written Contracts; Recruiting of Labour; Forced Labour; Labour Health Areas; Employment of Women; Employment of Young Persons; Clerical and Domestic Service; Shipping; Minimum Wages and General Conditions of Employment; Registration of Employees and of Industrial Workers; Breaches of Contracts and Disputes other than Trade Disputes.

The Employment of Ex-service Men Ordinance No. 48 provides for the reinstatement in civil employment of ex-service men; for training and rehabilitation centres; for the registration of ex-service men and of employers; and for the obligation of employers to employ a certain quota of ex-service men.

Public Health.—Several Ordinances increase the powers of those responsible for public health.

The Vaccination (Amendment) Ordinance No. 16 empowers a medical officer of health in the Colony or Southern Provinces to call on an adult to attend for examination and, if necessary, vaccination, instead of his having to visit from house to house.

The Yellow Fever and Infectious Diseases (Immunization) Ordinance No. 32 empowers the Governor in Council to direct compulsory inoculation against yellow fever, either generally or for specified classes of persons and in specified areas. Inoculation so ordered will be free. Under s. 12 the Governor in Council may make an order extending the provisions of the Ordinance to any infectious disease ; any such order must be laid upon the table of the Legislative Council at the next meeting, and its application to the Colony and the Southern Provinces will be subject to a negative resolution.

The Destruction of Mosquitoes Ordinance No. 69 gives wide powers to sanitary authorities ; they may order owners of property to take action to destroy mosquitoes, or may enter on premises and take the necessary action themselves. Other provisions forbid the clearing of undergrowth which affords shade to running or standing water, and direct owners of property to take various measures to prevent the breeding of mosquitoes.

The Private Hospitals Ordinance No. 52 provides for the registration of private hospitals, and empowers the Director of Medical Services to insist on certain minimum standards. An appeal against his decisions lies to the Supreme Court.

4. SIERRA LEONE

[*Contributed by* S. A. Benka-Coker, Esq., *Crown Counsel.*]

During the year 1945 thirty-six Ordinances were passed, of which twenty-two were amending Ordinances. The following call for special comment:—

Undesirable Advertisements.—No. 20 (*a*) prohibits the publication of any advertisement relating to any medicine or surgical appliance for the purpose of treatment of persons for the cure of venereal diseases, tuberculosis, sexual disabilities and other kindred diseases ; (*b*) requires all advertisements for sale of Patent or Proprietary Medicines to disclose name and address of manufacturers, composition of the medicine and the purpose for which the medicine is recommended.

Juvenile Offenders.—No. 35 extends the powers of the Court in cases of Juvenile Offenders. It simplifies trials whilst preserving all safeguards of justice in the nature of revision and appeals and fixes the age limit of children at 14 and young persons at 17. It introduces a probationary system for juveniles and enables a Juvenile Court to order that the parent or guardian shall pay a fine instead of the juvenile where the Court is satisfied that the parent or guardian has conduced to the commission of the offence. It abolishes imprisonment in cases of a child, and, in the case of a young person, provides that imprisonment can only be awarded in very exceptional cases. The Court in the more serious cases can commit offenders to an approved school for not less than 2 years, in which school the person so committed will be trained in duties of citizenship and be free from contamination by association with persons of undesirable character.

Protectorate.—No. 27 provides for the creation of District Councils and their constitution. By it the Council's functions are: (*a*) To advise on any matter brought before it by Government or the Chief Commissioner ; (*b*) to make recommendations to Government or Protectorate Assembly on matters affecting welfare of people of the District ; and (*c*) to suggest sources of income (Revenue).

It also establishes a Protectorate Assembly consisting of the Chief Commissioner, Provincial Commissioners, one representative of Medical, Education,

Agriculture, Public Works and Forestry Departments, Development and Town Planning Officer, two representatives from each District elected by members of District Councils from their own members, four African Members nominated by the Governor to represent interests not represented on District Councils, one Member nominated by the Governor to represent commercial interests, and one Member nominated by the Governor to represent mission interests. The function of this Assembly is to advise on any matters referred to it by the Government and to make recommendations on matters affecting the Protectorate as a whole, and to advise on expenditure from the Protectorate Mining Benefit Trust Fund.

Public Lands.—Nos. 22 and 23 provide for appeals from Final Judgment of the Supreme Court in cases where land has been acquired for public purposes and the court has been called upon to decide the question of the amount of compensation payable and to adjudicate in disputes relating to title and interest in the land so acquired. It also authorizes appeals from Final Judgments in these matters to the same extent as appeals are allowed from other Final Judgments.

Wages Boards.—No. 16 establishes a Wages Board in respect of special trades. The board's main purposes are to fix minimum rates of pay to be paid by all employers in respect of whom the board is instituted, subject to confirmation by the Commissioner. The rates are enforceable by law and penalties are provided in case of employers who fail to pay the minimum rate. Overtime rates are also provided for and provision is made whereby holiday with pay may be granted.

Legal Practitioners.—By No. 9 persons enrolled in the Supreme Court to practise as Barristers and Solicitors are given the right to appear and practise in Magistrates' Courts (*a*) in the Protectorate in all criminal matters and in civil matters where the amount involved exceeds £20 ; (*b*) in the Colony in all criminal matters and in civil matters where the claim exceeds £5.

Administration of Estates.—No. 8 substitutes the Official Administrator for the Curator of Intestate Estates and provides for the more effective control and supervision of the administration of estates by executors and administrators. It repeals and replaces the Intestate Estates Ordinance. It extends the jurisdiction of the Supreme Court to estates of deceased natives. It makes no change in principles governing the realization of assets and their distribution which are now in force in Sierra Leone.

Freetown Municipality.—No. 1 establishes a new City Council and provides a new constitution. The Council is to consist of a Mayor, Alderman and twelve Councillors. It provides for an elected majority and gives wider scope to the Council and enables the Council to establish, maintain and carry on public transport services within or without the city, to provide and maintain schools and educational facilities within the city and to engage in the purchase, distribution and sale of any commodity in the public interest. This Ordinance, however, is not yet in operation.

Courts.—No. 7 creates the Supreme Court as the Superior Court of Record in Sierra Leone with jurisdiction in the whole of Sierra Leone (Colony and Protectorate). It abolishes the summary jurisdiction of the Supreme Court, and all cases above £50 are now triable in the ordinary jurisdiction of the Supreme Court and cases of £50 and below are triable by the Magistrates' Courts. It also abolishes the Court of Requests and the Circuit Court and increases the criminal jurisdiction of the Magistrates in Freetown to £50. It also alters the name District Courts to Magistrates' Courts.

X. EAST AFRICA

1. KENYA

[*Contributed by* Hon. H. E. Stacey, *Acting Solicitor-General, Kenya.*]

Of the forty-four Ordinances enacted during the year 1945, the following may be of general interest:—

Revision of Laws.—No revised edition of the Laws of the Colony has been printed since 1926. A general revision is long overdue, but it was considered that the undertaking of such a formidable task at the present time was, for a variety of reasons, impracticable. There are a number of Ordinances in general use by members of the public which have been amended so frequently as to make them difficult to follow, and it was considered, in the public interest, that a general revision of certain specially selected Ordinances should now be made. With this object in view No. 1 empowers the Attorney-General, subject to the approval of the Governor, to prepare a revised edition of any Ordinance in force in the Colony.

Increase of Rent and of Mortgage Interest.—The object of No. 4 is to exempt from the provisions of the principal Ordinance (No. 12 of 1943) all dwelling-houses which are the property of a Local Authority.

Fish Protection.—No. 5 amends the principal Ordinance (No. 39 of 1939) by conferring power upon Fishery Inspectors, specially appointed by the Governor in that behalf, with the consent of the offender to compound offences. Prior to the enactment of the amending Ordinance, Magistrates and Fishery Inspectors spent a great deal of time in connection with trivial offences against the Ordinance. By making it possible for such offences to be compounded with the consent of the party concerned, time and money will be saved and inconvenience avoided.

Life Assurance.—No. 6 controls life assurance business with natives and ensures that any native who embarks upon life assurance is adequately protected. S. 2 provides that no person, other than a person approved by the Governor-in-Council, may effect any new life assurance business with a native. By s. 3 no person may effect any life assurance with a native unless the form of proposal and policy and any conditions affecting the policy have first been approved by the Chief Native Commissioner. S. 4 prohibits any person canvassing or soliciting any life assurance from a native unless such person has first obtained a permit, in writing, from the Provincial Commissioner.

Pensions.—The object of No. 7, which is modelled on recent legislation in the United Kingdom, is to grant temporary increases in the lower range of pensions in order to mitigate cases of severe hardship which are occurring under present conditions. It applies both to the pensions of former Government servants and to pensions payable under the Widows' and Orphans' Pension Schemes.

National Parks.—On April 9, 1935, His Majesty's Government in the United Kingdom ratified the International Convention for the Protection of Fauna and Flora, 1933. Under that Convention the contracting Government undertook, *inter alia*, to explore the possibility of establishing in their territories national parks and strict natural reserves as defined in Article 2 of the Convention. Pursuant to the above-mentioned undertaking a Game Policy Committee was appointed in 1939, with the object of exploring the methods by which the provisions of the Convention could best be implemented. On October 30, 1942, the Game Policy Committee submitted an Interim Report. No. 9, in the main, gives effect to the recommendations contained in that report.

Motor Vehicles Insurance.—No. 12 provides for the compulsory insurance in the Colony of motor vehicles against third-party risks.

Penal Code.—No. 13 amends s. 298 of the Penal Code, *inter alia*, by giving the courts of the Colony power to impose a sentence of corporal punishment for burglary. S. 3 inserts a new s. 317A in the Penal Code.

Pig Industry.—No. 19 controls the pig industry for the purpose of setting up a central organization for marketing, improving the standard of pig products and the general advancement of the pig industry. S. 3 establishes the Pig Industry Board, consisting of eleven members, of whom six will be elected by licensed pig producers at annual meetings called in the second half of every year. The board is a corporate body. S. 9 gives the board the sole right to sell and purchase pigs for consumption purposes and the sole right to export pigs, pig-meat or any other

pig product. S. 11 makes provision for the licensing of pig producers. Power is given to the board either to grant or refuse the issue of a licence, and in the case of refusal the applicant is given a right of appeal to the Governor-in-Council. S. 12 makes provision for the annual registration of native pig producers with the District Commissioner of the district in which they reside. By ss. 13 and 14 the board is precluded from purchasing pigs from any person who is not a licensed pig producer, and, subject to s. 15, is required to purchase all pigs offered to it for sale by any licensed pig producer on terms which may be fixed by the board. S. 15 empowers the board by order to limit the number of pigs which may be supplied by any pig producer over a specified period. S. 16 makes provision for the licensing of bacon factories. As in s. 11, power is given to the board to grant or refuse the issue of a licence, and in the case of refusal provision is made for an appeal to the Governor-in-Council. The only exception to the board's right to refuse a licence under this section is in the case of a bacon factory which was in operation at the date of the coming into force of the Ordinance. In such a case the board cannot refuse a licence in the first instance, though it can refuse to grant a renewal when the licence has expired. S. 17 empowers the board, subject to the right of appeal to the Governor-in-Council, to close down a bacon factory which it considers to be redundant. In order to exercise its power under this section the board must serve a written notice on the licensee of the bacon factory not less than six months prior to the expiry of his current licence of its intention to issue an order closing down the factory. Where an order is made under this section compensation is payable by the board to the owner of the bacon factory. S. 19 establishes the Pig Industry Fund, specifies the moneys from which it will be derived and the purposes for which it may be applied. S. 25 empowers the Governor-in-Council, on the recommendation of the board, to impose a special cess on pigs supplied to the board.

The object of No. 20 is to establish a limited liability company in which the concern known as the Uplands Bacon Factory will be vested, and to give to all pig producers who have contributed to the cess, provided for by a resolution passed by the Legislative Council of the Colony on June 18, 1941, a financial interest in such company in the form of redeemable preference shares. The control of the company will be in the hands of the Pig Industry Board established under the Pig Industry Ordinance, 1945.

Sisal Industry.—No. 21 has as its main object the substitution of a more representative Sisal Board than that established under the Sisal Ordinance, 1939, and an extension of the board's functions. S. 3 establishes a board consisting of 11 persons, including six representatives of the Kenya Sisal Growers' Association and two members of the Tanganyika Sisal Board. Except in the case of the members who are appointed by the Kenya Sisal Growers' Association under para. (*e*) of sub-s. (1) of the section, no provision is made for the retirement of members, and each member will continue to hold office until his appointment is cancelled by the person or body of persons who appointed him. Unlike the previous Kenya Sisal Board, of which the Director of Agriculture was Chairman, the new board will elect their own chairman annually. S. 7 sets out the functions of the board. The power to make Rules, which is conferred upon the Governor-in-Council on the advice of the board by s. 11, is more detailed than under the Ordinance repealed, and includes the power to provide for a superannuation, pension or provident fund for the board's officers and servants. S. 12 provides that the board shall be the registration authority for the purposes of registering sisal plantations and plantation marks under the Rules and it will thus take the place of the Registration Officer appointed under the Ordinance repealed. S. 15 provides for the imposition of a cess on production in place of the levy on export provided for under the Ordinance repealed. S. 19 repeals the Sisal Ordinance, 1939, but preserves all rules, notices, orders, registrations, appointments or nominations made under the Ordinance repealed, until new provisions are made.

Local Loan.—No. 22 empowers the Governor to raise a loan not exceeding two million pounds by the issue in the Colony of registered stock to be known as Kenya Stock, and enables the amount of such loan to be raised either at one time or by successive issues.

Criminal Procedure Code.—By s. 89 (4) of the Criminal Procedure Code a magistrate, upon receiving a complaint, was required to draw up a formal charge, however lacking in substance he may consider the complaint to be. Ss. 2 and 3 of No. 24 give a magistrate power to refuse to admit the complaint if in his opinion it discloses no offence. The first paragraph of s. 360 of the Code gave a right of appeal on a matter of law to any person aggrieved by a decision of the Supreme Court in its appellate jurisdiction. It was held that the Crown was not a " person aggrieved " in a case where the Supreme Court has allowed an appeal from a subordinate court against conviction. S. 4 of the Ordinance now gives the prosecution a right of appeal on a matter of law from a decision of the Supreme Court in its appellate jurisdiction.

Stamp.—S. 4 of the principal Ordinance (c. 57 of the Revised Edition) restricted the payment of stamp duty to instruments relating to the " transfer or hypothecation " of any property situate in the Colony or " to any matter or thing to be performed or done therein." Thus a policy of insurance which covered property situate in Kenya was not liable to stamp duty if the policy provided that the payment of any claim under the policy was to be made outside Kenya. The amendment remedies the position.

Game.—No. 29 has as its object the inclusion of duly authorized servants of the Game Department among the persons who are given power to require the production of licences, the power of search and seizure, and the power of arrest under ss. 20, 48 and 49 respectively of the Game Ordinance, 1937.

Control of Grass Fires.—S. 3 of the amending Ordinance No. 30 transfers to local authorities the power to prohibit the burning of vegetation, which was conferred upon the Director of Agriculture by s. 5 of the principal Ordinance. The Ordinance also empowers local authorities to order compulsory firebreaks in areas situate within their jurisdiction, and any owner or occupier who fails to comply with the order will be guilty of an offence.

Medical Practitioners and Dentists.—Ordinance No. 31 enables the Director of Medical Services, when he is satisfied that it is in the public interest so to do, to license as a medical officer (*a*) any person who is an assistant surgeon, sub-assistant surgeon or African assistant medical officer in the service of the Government or of the Kenya and Uganda Railways and Harbours Administration ; and (*b*) any person who, having performed meritorious service under the Government or the Kenya and Uganda Railways and Harbours Administration as an assistant surgeon, sub-assistant surgeon or African assistant medical officer, has retired from such service.

Co-operative Societies.—The object of No. 38 is to secure a single piece of comprehensive legislation suitable for regulating Co-operative Societies of all kinds. The Co-operative Societies (Registration) Ordinance, 1931, as amended by the Co-operative Societies (Registration) (Amendment) Ordinance, 1932, which is now repealed, was suitable only for societies of a relatively ambitious kind which were the only ones in existence or under contemplation at the time these Ordinances were passed.

Companies.—No. 39 amends the principal Ordinance (No. 28 of 1933) by meeting the requirements of certain types of trading organizations in the Colony who, in the past, have found it necessary to register as companies under the principal Ordinance and as co-operative societies under the Co-operative Societies (Registration) Ordinance, 1931 (No. 24 of 1931). Under the Ordinance it will be possible for this type of organization to restrict its registration to a single registration under the Companies Ordinance, 1933.

2. NYASALAND

[*Contributed by* E. J. E. Law, Esq., *Crown Counsel.*]

In 1945 thirty-one Ordinances were enacted. The most important are dealt with below.

Education.—No. 1 was designed to give effect to the approved recommendations of an Advisory Committee on Education for a five-year educational plan.

Probation of Offenders.—No. 10 closely follows the Probation of Offenders Act, 1907, as amended by the Criminal Justice Act, 1925, and the Children and Young Persons Act, 1933, and was enacted to implement the recommendations of a Committee under the Chairmanship of the Chief Justice which unanimously recommended the introduction of a probation system in the Protectorate.

Poor Prisoners Defence.—No. 19 provides for the granting of free legal aid to prisoners to assist them in the preparation and conduct of their defence. The fees of advocates assigned to defend prisoners under the Ordinance are paid out of public funds.

Pensions.—No. 24 is designed to relieve hardship amongst the lower grades of European, Asiatic and African pensioners who have retired from Government service, by providing for increases of from 20 to 30 per centum in their pensions.

Prisons.—No. 27 replaces former prison legislation by a modern and comprehensive enactment.

Penal Code and Criminal Procedure Code.—Nos. 3 and 4 provided, *inter alia*, for the preparation and publication of consolidated editions of the two Codes. The consolidated editions were brought into force on July 1, 1946.

3. SOMALILAND PROTECTORATE

[*Contributed by* Major R. J. Quin, *Legal Secretary.*]

Ten Ordinances were enacted in 1945.

Interpretation and General Clauses.—No. 4 is based on the Model Ordinance set out at pages 575–586 of Russell's "Legislative Drafting and Forms" (4th Edition) adapted to local requirements and is similar to legislation on the subject that exists in nearly every territory under the Colonial Office.

Departmental Offences.—No. 5 is based on similar legislation in other Colonial territories, provides for the establishment of a Departmental Fines Fund and regularizes the imposition of fines on subordinate members of the public service.

Collective Punishment.—No. 8 consolidates the law relating to the imposition of collective punishment on tribes and communities.

Administration of Criminal Justice.—No. 10 amends the principal Ordinance by reducing the ordinary powers of the District Courts when dealing with cases in which the accused is a native and provides for the trial of natives in more serious cases, either by the Protectorate Court or by specially selected magistrates.

4. TANGANYIKA TERRITORY

[It is hoped to publish the review in the next issue.]

5. UGANDA PROTECTORATE

[*Contributed by* J. R. Gregg, Esq., *Attorney-General.*]

During the year 1945 twenty-five Ordinances were passed, of which seventeen were amending Ordinances. The following are the more important enactments:—

Pensions.—No. 4 provides for temporary increases in the lower range of the pensions of former Government servants and the pensions payable under the Widows' and Orphans' Pension Schemes in order to mitigate cases of severe hardship occurring under existing conditions. The Ordinance is based on similar

legislation in the United Kingdom and it has been followed in the other East African territories in order to achieve the strictly uniform action considered necessary. By a Proclamation dated December 8, 1945, the period during which this Ordinance will continue in force has been extended to December 31, 1946.

No. 6 implements certain recommendations of a Committee appointed by the Secretary of State to review the existing arrangements for the grant of pensions to the widows and orphans of officers in the Colonial Service.

Income Tax.—No. 8 amends the Income Tax Ordinance, 1940 (No. 27) in three respects, namely: it enables income from property in the hands of the Custodian of Enemy Property to be assessed and charged with income tax ; it remedies a defect in the existing law under which a deduction was allowed in respect of the maintenance of a dependant relative ; and allows further relief in respect of income which is liable to income tax both in East Africa and in the United Kingdom.

Buganda Courts.—No. 10 deals with Native Courts in the Buganda Province. In consequence of the reorganization of the Buganda Government it has been found necessary to amend the principal Ordinance (No. 4 of 1940) by giving all the judges of the Principal Court (the old Lukiko Court) and also the Resident and the Assistant Residents powers to inspect the records of courts subordinate to them. The amending Ordinance also regularizes the former practice of appointing assistant judges by giving these assistant judges a permanent status, and strengthens the powers of the court to enforce its orders.

Cattle Grazing.—No. 13 controls cattle grazing by African cattle-owners over Crown lands. The Ordinance empowers a District Commissioner or a Native Authority to make an Order prohibiting the grazing of cattle in any district or area which is being over-grazed unless the owner of the cattle is in possession of a permit. The prevention of over-grazing is also designed to prevent soil erosion.

Traffic.—No. 16 introduces compulsory insurance of motor vehicles against third-party risks. The Ordinance closely follows the English law relating to third-party insurance.

Excess Profits Tax.—No. 19 amends the principal Ordinance (No. 10 of 1941) to provide for the first stage of the winding up of excess profits tax ; it will be necessary to introduce a final winding up legislation during 1946. The legislation deals with businesses carried on by the Custodian of Enemy Property ; the final chargeable accounting period for the purpose of the tax ; new provisions to prevent tax avoidance and provision for stock-in-trade to be taken at the final accounting period.

Coffee Export Duty.—No. 20 imposes an export duty on native-grown coffee to assist in meeting additional expenditure to be incurred on African social services. The tax does not, however, affect the price paid to the grower.

Life Assurance.—No. 22 controls life assurance business with natives and ensures that life policies are only issued by persons of substance and that natives who embark upon life assurance are adequately protected.

Registration of Nurses.—No. 24 provides for the registration of nurses and sets up an organization to control the nursing profession and makes it an offence for a person to act as a nurse unless registered.

6. ZANZIBAR

[*Contributed by* A. HALLAM ROBERTS, ESQ., *Attorney-General.*]

1944

DURING the year 1944 altogether 16 Decrees were enacted, of which 11 were amending Decrees.

New measures of considerable importance introduced during the year are:—

Rent Restriction.—The necessity for Decree No. 3 began keenly to be felt and it was decided to standardize the rent of premises obtaining in the middle of the year 1943. The rents of both dwelling-houses as well as business premises were brought under control. Rent Boards established under the Decree consider increases of rent in certain cases, an appeal from the Board's decision lying to the British Resident. Conditions under which landlords can ask for ejectment of their tenants are laid down. These follow the practice in the United Kingdom and elsewhere. Power is reserved to His Highness the Sultan in Executive Council to allow increases in rent in special cases.

Townships.—No. 6 inaugurates the introduction of municipal government by developing township authorities on more representative lines than heretofore. The Town Councils established under the Decree are expected to share a greater measure of responsibility in matters such as housing and town improvements. The provisions of the Decree are largely drawn from the Uganda Townships Ordinance, 1938. The provisions as to rating and protection from fire have been taken from the Towns Decree (c. 100), whereas other important provisions concerning streets, building regulations, drainage, lighting and water supply are for the present reserved for Central Government. Adequate provision exists for enabling the Town Council to make bye-laws subject to the approval of the British Resident.

Of the amending legislation the following are worth noting:—

Marriage and Divorce (Mahommedan) Registration.—The Decree as now amended by No. 5 applies to marriages to which one party is a Mahommedan Indian and the other a Mahommedan Non-Indian and it is now made clear that such a marriage must be registered under the Decree, thus removing the doubt hitherto existing on the point. It is also made clear that in the case of divorces or revocations of divorce decreed by or pronounced in a court, it is not necessary for the parties to appear in person before a Registrar for effecting the necessary registration. The procedure to be followed in such cases is also more fully set out.

Power is given to the Registrar to withhold delivery of a copy of a registered revocable divorce to the parties until three months after registration, which is the maximum period within which a divorce can, under Mahommedan Law, be revoked.

The most important innovation is the repeal of s. 20 of the principal Decree which precluded a court from taking cognizance of an unregistered marriage or divorce, as this provision was considered too harsh in that the parties may be unable to remedy their omission and so be permanently barred from obtaining through the court such relief as divorce, maintenance, etc. However, failure to register is severely penalized by imposition of a heavy fine and imprisonment up to six months.

Criminal Procedure.—The Penal Sub-Committee of the Colonial Social Welfare Advisory Committee in the United Kingdom have commented on the large number of sentences of imprisonment for comparatively short periods and have suggested that it might be possible to reduce the number of such cases by awarding a fine or caution as an alternative. Effect has been given to this recommendation in No. 7 by providing for the substitution of police custody for imprisonment in case of ultra short-term sentence and to enlarge the scope of the existing provisions for the payment of fines when there is a possibility of avoiding the actual serving of a prison sentence, following s. 13 of the Criminal Jurisdiction Administration Act, 1914 (4 & 5 Geo. 5, c. 58) and the Money Payments (Justice Procedure) Act, 1935 (25 & 26 Geo. 5, c. 46).

Town Planning.—The amendments contained in No. 8 are designed to bring the Town Planning Decree (c. 101) more into line with modern legislation and thus to enable town planning to be effectively put into force in areas within the Protectorate where it may be particularly required.

The British Resident is empowered to appoint an authority to prepare a town-

planning scheme in any selected area, and within the period stated, not exceeding two years.

A town-planning scheme is either a proposed or an approved scheme, the matters to be covered by each type of scheme being set out therein. Plans duly signed by responsible officers and the British Resident must accompany any scheme which is prepared and copies of scheme and the plans are to be deposited for public inspection.

No scheme can be put into force until a period of not less than two months has elapsed from the date of publication of the notice of deposit of the scheme, and where the British Resident directs that a scheme shall be put into force notification is posted at prominent places and published in the *Gazette* and the local press, together with the date from which it is to be operative. Provision is made for objection being made by any person whose property is affected by the scheme. All objections are considered by the British Resident and the property-owner concerned is notified of the result. The British Resident has power to modify, suspend or annul schemes at any time. Power is given to the authority, *inter alia,* to arrange for what is known as " parcellation," to enable plots to be arranged in the most convenient shape to allow for the necessary open spaces, recreation grounds and similar amenities, and to provide new roads of access. The new plots are to bear the same position and ratio to the original holdings as far as may be found possible, and if this is not possible the owners will receive compensation for the difference in value. Power is given to expropriate without compensation up to one-fifth of the land of any owner concerned (new s. 7A), but the British Resident has power to direct compensation in any case where it is established that hardship would otherwise be caused. If the value of an original holding is improved the authority is entitled to recover one-half of the amount of the increase. Such provisions as these are commonly found in town-planning legislation, and the sections are, in fact, taken from similar sections which occur in the Kenya and Palestine Town Planning Ordinances. The area to be subjected to parcellation must be notified and published as in the case of proposed or approved schemes, and cannot be approved by the British Resident until two months thereafter.

No essential alteration is introduced in the method of enforcing a scheme and the measure of computing compensation remains as it is at present, no alterations other than those of a purely verbal character being introduced.

Provisions to ensure (*a*) that no dwelling-houses are to be evacuated until suitable alternative accommodation is available ; (*b*) that the former owner of any property acquired under the scheme shall have the " first refusal " of the plot if subsequently offered for sale by the authority are also included.

Registration of Documents.—The amendments and additions to the Registration of Documents Decree (c. 111) covered by No. 10 are made with the object, particularly, of making all courts' decrees relating to immovable property in Zanzibar compulsorily registrable and, generally, to provide for certain other matters which experience has shown to be desirable.

The detailed provisions are as follows: (*a*) Limitation of the powers of a Deputy Registrar ; (*b*) Compulsory registration of all court decrees and orders affecting land ; (*c*) Permission of slight variations in the wording of forms presented for registration ; (*d*) The necessity of including the number of clove and coconut trees on a property in the parcels. Such a record assists identification ; (*e*) Any one party to or person interested in the transaction is entitled to present the document for registration ; (*f*) Provision for cases in which a party may have died between execution and presentation.

Undue delay in the collection of original documents from the Registrar's Department after registration has been duly effected are penalized. The Registrar is protected from liability for loss or damage to documents during that period.

Machinery is provided to enable court decrees and orders as will now become

compulsorily registrable to be sent automatically by means of certified copies to the Registrar.

Provisions for protecting officials and parties from inadvertent omissions and mistakes in conformity with the law on the mainland and in India.

Juvenile Offenders.—No. 14 introduces provisions for the constitution of special Juvenile Courts following the recommendation in that behalf by the Welfare Committee set up by the Government under the Chairmanship of His Honour the Chief Justice.

The provisions introduced are based on those in force in England as set out in the Children and Young Persons Act, 1933, modified to meet local conditions.

1945

DURING the year under review twenty-two Decrees were enacted, of which six were new Decrees, the remaining being amending ones only.

Amongst the new Decrees the following deserve specific mention:—

Pensions.—No. 5 was introduced at the instance of the Secretary of State. It provides for the grant of temporary increases in the lower range of pensions in order to mitigate cases of severe hardship which are occurring under present conditions.

The Decree expires at the end of 1945, unless renewed by the British Resident by Proclamation which is subject to the prior approval of the Legislative Council.

No. 10 was enacted to give statutory effect to the provisions governing the grant of pensions and gratuities to Non-European officers of the Zanzibar Government which were hitherto contained in Appendix 5 to General Orders. Adequate safeguards were inserted to protect existing interests.

Provisions in respect of dependants of officers killed on duty, and of option for reduced pension and gratuity on retirement have also been incorporated in the Decree.

The Decree closely follows similar legislation to be found on the mainland.

Illiterates' Protection.—No. 11 was enacted at the instance of His Honour the Chief Justice who advocated its enactment in place of the existing Court Petition-Writers Decree, 1940 (No. 30 of 1940). Practical experience has shown that the latter Decree failed to check the abuses against which it was directed and His Honour recommended that the Court Petitioner-Writer should no longer be legally recognized. It was, however, necessary that some form of assistance to illiterate or uneducated litigants and other persons should be accorded and the Decree therefore provides for the issue, under proper safeguards, of licences to letter-writers whose fees will be restricted to the figure of 1/– for every hundred words of each document prepared by them. All other letter-writing, or preparation of documents, for reward, save that specified in s. 10, is prohibited.

The Decree follows, with the adaptation necessary to meet local conditions, the Gold Coast Illiterates' Protection Ordinance (c. 69, Laws of the Gold Coast Colony, 1928).

Midwives.—No. 12 introduces a system of registration of midwives with recognized qualifications, in order to produce a regular standard of training for midwives and ultimately to raise the level of midwifery throughout the Protectorate. Such legislation is to be found in many countries throughout the Empire, and the Decree is, in fact, based on the Uganda law, modified in certain important respects to suit the local conditions of Zanzibar.

The operation of the Decree will be largely in the hands of a board, of which the Senior Medical Officer will be Chairman, and of Supervisory Authorities appointed by, and to act under, the board. Provision has been made by which no prosecution for an offence under the Decree can be instituted except with the sanction of the board, and it is not proposed, initially, to apply its provisions at all to rural areas.

Woodcutting.—No. 18 replaces the Woodcutting Decree (c. 37) with provisions

which should enable a more complete control of the timber resources of the Protectorate to be maintained. It has also been decided to take powers under which a portion of the proceeds of cutting from any given area may be devoted to the welfare of the inhabitants of that area.

To this end His Highness the Sultan in Executive Council is given wide rule-making powers under s. 12 and, in addition, under s. 10 may prescribe the fees payable for permits to be issued, the royalty to be collected on all wood cut under permit, and the method of collection and disposal of such royalty.

S. 8 allows for reservation of closed areas in suitable districts and s. 11 for exemptions, either individually or as a class, to be granted when the wood is required purely for domestic or agricultural purposes, but, in general, all wood-cutting on Government land, including the mangrove areas, is to be done under permit. When cut, the wood is to be brought to a recognized stacking place, where a fresh permit will be issued for its removal for sale or other disposal (ss. 2, 3 and 4).

It is proposed that the appointment of Licensing Officer and Inspectors under ss. 2 and 3 should be made from officers of the Administration. From the nature of the industry and the areas involved it is necessary to give these officers, and all police officers, powers to call for production of permits and for arrest without warrant in suspicious cases (ss. 6 and 7).

Approved Schools.—There are, at present, in the Protectorate no schools to which juvenile delinquents may be sent for proper care and custody, and, on the recommendation of the Chief Justice, an approach was made to the Tanganyika Government with a view to their possible reception in that Territory, where such schools are available.

The Tanganyika Government has agreed and has now enacted reciprocal legislation authorizing their reception and detention in approved schools in that Territory.

No. 21 implements this arrangement.

Of the amending Decrees the following may be noted:—

Criminal Procedure.—The object of No. 1 is to substitute for s. 111A of the Penal Decree (c. 9) a new form of procedure under the Criminal Procedure Decree (c. 8) to enable the avoidance of committal proceedings as prescribed under Part VIII of the latter Decree. S. 111A was introduced into the Penal Decree in the year 1943 for the purpose of enabling the High Court summarily to sentence any person giving false or conflicting testimony in any judicial proceeding. The powers thereby given to the court, whilst corresponding with provisions to be found in other Colonial legislation, are not usual. As a result of fuller examination which was since made, it was decided to adopt a simplified form of procedure for committal proceedings based on the Perjury Act, 1911, from which the new s. 226A has been taken, with the necessary adaptations. Sub-s. (5) preserves the existing and what would be an alternative procedure whereby certain subordinate courts are empowered to try or hold a preliminary inquiry into a charge of perjury.

Customs Tariff.—It has been recommended to Government that this Protectorate should adopt the definition of the term "value" (by reference to which customs duty is charged on imported goods in certain cases) which is to be found both in the Customs laws of the neighbouring Territories and in the Model Customs Ordinance originally recommended by the Secretary of State. The law as it stood before the enactment of No. 4 called for the assessment of duty on the basis of the domestic value in the country of origin whereas the amendment introduced by this Decree provides for assessment of duty based on the value at the place of importation. The new definition will mean a simplification in checking invoiced values and will be of assistance to the commercial community as a whole.

At the same time opportunity has been taken to introduce a more flexible

method of determining value for duty when goods have been imported under unusual conditions than that which was hitherto contained in the principal Decree. This new method is also to be found in the mainland legislation.

XI. SOUTH ATLANTIC

1. BRITISH GUIANA

[*Contributed by* A. C. Brazao, Esq., *Legal Draftsman.*]

Eighteen Ordinances were enacted during the year 1945. The more important of these were the following:—

Mining.—No. 1 amends the Mining (Consolidation) Ordinance, c. 175, and empowers the Governor-in-Council to close areas of unoccupied Crown lands to prospecting and mining for a specified period or without period assigned.

Public Loan.—No. 5 authorizes the Governor to issue debentures to an amount not exceeding five million dollars bearing interest at the rate of 3½ per centum per annum. The provisions of the General Local Loan Ordinance, 1941 (No. 25), are made applicable to debentures so issued.

Tax.—No. 8 increases both the licence fee payable in respect of premises used for cinematograph entertainments and the duty payable for admission to such entertainments.

Rice Farmers.—No. 10 provides a certain measure of protection for tenants of rice lands hitherto subject to the vagaries of increasing rents and insecurity of tenure. Any agreement in respect of the letting of such lands is deemed to be an agreement of tenancy from year to year with certain implied conditions as provided by the Ordinance. The basic standard rent is the rent which was payable for the letting of such land during the year 1941. The Ordinance is limited to expire in April, 1947, but may be continued in force from time to time by resolution of the Legislative Council.

Legislative Council Elections.—No. 13 replaces the law relating to elections hitherto to be found in the British Guiana (Constitution) Order in Council, 1928, and amending Orders in Council. An important feature of this enactment is the substantial reduction in the franchise which now all but embraces adult suffrage.

Local Government.—No. 14 consolidates and amends the law relating to Local Government enacted between 1907 and 1940, and principally to be found in c. 84. Representation on the Local Government Board, which exercises general powers of supervision, inspection and control over the several local authorities, has been broadened, and the opportunity has been taken to re-draft some of the provisions of the existing law.

Town Planning.—On February 23, 1945, a large portion of the commercial and administrative section of the city of Georgetown was completely destroyed by fire. No. 18 provides for the replanning and rebuilding of that portion of the city along more modern and scientific lines and includes provisions restricting the height and use of premises in that area.

2. BRITISH HONDURAS

[It is hoped to publish the review in the next issue.]

3. FALKLAND ISLANDS

Emergency Legislation.—Proclamations Nos. 1 to 4 of 1945 provide for the repeal of war-time legislation no longer considered necessary. Regulations Nos. 2, 3, 4, 5 and 6 of 1945 repeal certain war-time Defence Regulations no longer considered necessary. Orders Nos. 2 and 3 repeal certain war-time Orders no longer considered necessary.

Currency.—Regulation No. 1 was made on instructions received from the Secretary of State and prohibits the acceptance by the Colonial Treasury after May 31, 1945, of Bank of England notes of the denomination of £5 or of higher values.

Air Mail.—Order No. 1 fixes the fees to be charged in the Colony and the Dependencies on air letters forwarded to Montevideo for transmission.

Order No. 4 repeals s. 3 of Order No. 1 and provides amended fees to be charged in the Colony and the Dependencies on air letters forwarded to Montevideo for onward transmission.

XII. WEST INDIES

1. BAHAMAS

[*Contributed by* J. S. R. Cole, Esq., *Attorney-General.*]

1944

Thirty-four Acts were passed during the year.

Workmen's Compensation.—No. 9 amends the Workmen's Compensation Act, 1943, by inserting therein the definition of " period of the present emergency " and a new sub-section so as to exclude war injuries from the scope of the Act.

Banks.—No. 10 provides that the manager or assistant manager of a bank in certain circumstances may, without the production of probate or letters of administration, pay any sum not exceeding £30 standing to the credit of a deceased person to any person producing satisfactory proof of the death of the depositor. It applies to savings accounts only.

Voting by Ballot.—No. 16 makes permanent the temporary provisions for a secret ballot instituted by the Voting by Ballot (New Providence) Act, 1939.

Farm Products Control.—No. 21 is an attempt to restrict the offence of prædial larceny by providing that all dealers in " farm products " should be licensed, and should keep accounts and records of their trading transactions, and that masters of ships trading within the Colony should supply to the Comptroller of Customs or an Out Island Commissioner, as the case might be, a complete list of all farm products intended to be landed at any port in the Colony. The Act was to be in force for one year and was not renewed.

Companies.—No. 23 provides that where a memorandum of association is not accompanied by articles of association in the first place articles of association may later be deposited at any time. It also incorporates the provisions of s. 264 of the Companies Act, 1929, with necessary modifications and adds provisions dealing with preferential payments on the occasion of a winding up.

No. 26 clarifies the position of foreign companies which have deposited their Act or Charter of Incorporation in the Colony. The principal Act is limited to companies incorporated for the purpose of acquiring land within the Colony and this amendment enlarges its operation to include all foreign companies capable of acquiring or holding land.

Distressed Seamen.—No. 31 repeals and replaces two Acts of 1870 and 1880 respectively which dealt with the relief and return to the Colony of distressed seamen. The present Act adds provisions similar to ss. 41, 42 and 45 of the Merchant Shipping Act, 1906, and provides for the relief of any person including a stevedore or apprentice employed in any capacity on a ship registered in the Colony and for his return to a " proper return port " if found in distress in any place without the Colony.

1945

Forty-one Acts were passed during the year 1945.

Petroleum.—No. 1 vests in the Government the property in all petroleum in the

Colony. It provides for the appointment of a Petroleum Board which shall have the power to grant oil exploration licences, oil prospecting licences and oil mining leases anywhere in the Colony except upon the Island of New Providence or the land underlying the sea within 4 miles thereof. It follows the lines of other Colonial oil mining legislation but includes provision for exploration, prospecting and mining of submarine areas.

Juvenile Offenders.—No. 3 increases the age of juvenile offenders and young persons in the Juvenile Offenders Act, the Industrial Schools Act and the Penal Code from 17 to 18.

Stamp Duties.—No. 5 exempts from stamp duty instruments fi edon applications for probate or letters of administration where the value of the personal estate of a deceased person is less than £10 and there is no real estate.

Tariff.—No. 6 repeals the Tariff (Lumber Industry Protection) Act, 1938.

Venereal Disease.—No. 21 provides for compulsory treatment of all persons suffering or suspecting that they are suffering from venereal disease and for the compulsory examination of all persons committed to prison or to an industrial school. It provides for proceedings to be held in camera and imposes secrecy on all persons acting or assisting in the administration of the Act. It applies to New Providence and may be extended by Order in Council to any other part of the Colony.

Police.—No. 25 amends the Police Act in accordance with the recommendations of a Commission appointed to enquire into the administration of the police. It deals with various matters such as pensions, compensation for injury, arrest without warrant and good conduct badges.

2. BARBADOS

3. JAMAICA

4. LEEWARD ISLANDS

[It is hoped to print the reviews in the next issue.]

5. WINDWARD ISLANDS

(i) Grenada

[*Contributed by* The Attorney-General.]

1944

The following 11 Ordinances were passed:—

Workmen's Compensation.—No. 1 amends the principal Ordinance (c. 248) by inserting definitions of the terms "period of present emergency" and "war injury," and by deleting agricultural workers from the list of persons who were not regarded as workmen for the purposes of the Ordinance.

South Caribbean Force.—No. 2 constitutes the Grenada detachment of the Windward Islands Regiment of the South Caribbean Force.

No. 4 amends the principal Ordinance (No. 2 of 1944) by substituting the word "Regiment" for the word "Garrison" wherever it appears in the principal Ordinance, and by substituting the words "Officer Commanding, Windward Islands Garrison" for the words "Commander, South Caribbean Area" occurring in para. (*c*) of the proviso to s. 3 of the principal Ordinance.

Customs Duties.—No. 3 amends the Customs Duties Ordinance (c. 59) by inserting a new s. 12A after s. 12 thereof empowering the Governor-in-Council to remit or refund customs duties when he is satisfied that it is just and equitable so to do.

The Ordinance also repeals item 54 of the Second Schedule to the Ordinance (c. 59).

Estate Duty.—No. 5 amends the principal Ordinance (c. 77) by making provision for the remission of estate duty in cases of persons killed in war and also in the case of property passing more than once owing to death caused by the war.

The application of this Ordinance is limited only to deaths occurring on or after September 3, 1939.

Prison Officers' Pensions.—No. 6 amends the principal Ordinance (No. 30 of 1935) by repealing ss. 5 (ii) and 19 thereof and the second proviso to s. 6 thereof. The Ordinance also amends the principal Ordinance by the addition thereto of a new s. 6A after s. 6 providing for the reduction or withholding of pension in certain cases.

Supreme Court.—No. 7 repeals the Supreme Court Ordinance (c. 220) and makes other provision in lieu thereof as a result of the coming into force on January 1, 1943, of the Leeward Islands and Windward Islands (Courts) Order in Council, 1939.

1945

THE following 14 Ordinances were passed:—

Supreme Court.—No. 1 amends the Supreme Court Ordinance, 1944 (No. 7 of 1944) by repealing and replacing s. 31 thereof. By this section, Solicitors are allowed audience in the Supreme Court in its Summary Jurisdiction provided they have practised as Solicitors for a period of five years prior to the passing of the Ordinance. The section also provides for audience to Solicitors in the Supreme Court at the hearing of any appeal from a Magistrate's Court if they had appeared in the Magistrate's Court on behalf of one of the parties to the appeal.

Cotton and Ginning.—No. 2 makes provision for the establishment of a Central Cotton Ginnery at Carriacou to be operated by Government and at which all cotton grown or received in the Colony should be ginned.

The Ordinance also gives the Governor-in-Council power, with the approval of the Legislative Council, to make regulations to effect the proper picking, preparation and marketing of cotton in the Colony, and for sharing the profits of the ginnery between producers.

Land Acquisition.—No. 3 repeals and replaces the Land Acquisition Ordinance, 1934 (c. 110) and introduces certain new features in the machinery for the acquisition of land for public purposes.

Nutmeg Industry.—No. 4 creates a body corporate to safeguard and promote the interests of the nutmeg industry and in particular to market nutmegs and to regulate and control the export thereof.

Building Societies.—No. 5 merely amends s. 15 of the Building Societies Ordinance (c. 26) by the addition of certain words thereto.

Customs Duties.—No. 6 amends items 71, 78 and 107 of the First Schedule to the Customs Duties Ordinance (c. 59), and adds yet another item to the Second Schedule thereof.

Solicitors.—No. 7 permits the Court to take into account for the purposes of admission to practice the period spent by an articled clerk in national service during the "present emergency," provided however that the clerk should not be admitted as a solicitor unless he has, during the suggested period of not less than ten years, actually served under articles of clerkship in the office of a practising barrister or solicitor residing in the Colony.

Divorce.—No. 8 amends s. 6 of the Supreme Court Ordinance, 1944 (No. 7 of 1944) by the addition thereto of a proviso widening the grounds for divorce to include persons of unsound mind so found for a period of not less than five years.

Employment of Children.—No. 9 amends the Employment of Women, Young

Persons and Children Ordinance (c. 75) by the addition thereto of a new section restricting the employment of children.

Shipping.—No. 10 amends the Shipping Ordinance (c. 211) by the addition thereto of a new s. 26A setting out sundry offences under the Ordinance.

Motor Vehicles.—No. 11 amends the Motor Vehicles and Road Traffic Ordinance, 1938 (No. 2 of 1938), by the addition to s. 38 thereof of a proviso exempting certain persons from the payment of the fee for a driving permit.

(ii) Saint Lucia

[It is hoped to publish the review in the next issue.]

(iii) Saint Vincent

[*Contributed by* H. Cecil Lewis, Esq., *Crown Attorney*.]

Thirty-two Ordinances were enacted during the year 1945, the more important of which were:—

Rent Restriction.—No. 3 restricts increases of rent of dwelling-houses and the right to recovery of possession thereof. The object of the Ordinance is to prevent conditions due to the war being used as a pretext by landlords to increase rents payable in respect of dwelling-houses and building lots.

Police.—No. 4 amends the Police Ordinance, c. 125 of the Revised Laws. It replaces s. 31 of the principal Ordinance and deals with the liability of the members of the Police Force to Military Service in a more comprehensive manner. It provides for the payment of pensions to members of the Police Force who are disabled whilst on actual military service in accordance with the scales laid down for officers and men of His Majesty's Army. Hitherto provision was made only for the families of men who were killed, or who died from wounds, or diseases contracted, whilst on military service.

Land Settlement.—No. 10 creates a body corporate to regulate and control Land Settlement and Development in the Colony. It is to be known as the "Land Settlement and Development Board" whose primary object will be the acquisition of land and the establishment thereon of small holders.

Kingstown.—No. 15 amends the Kingstown Board Ordinance, c. 209 of the Revised Laws. Its objects are:—

1. To increase from £40 to £60 the amount which the board is authorized to spend annually on scholarships.
2. To provide for the collection of taxes on: (*a*) Commercial Agencies; (*b*) Traders whose stock is less than £25 in value; (*c*) Goods lying on beaches; (*d*) Mobile refreshment vans; (*e*) Aerated water factories, soap factories, oil factories, bakeries, billiard saloons, proprietary clubs, cinemas, and itinerant traders.

Public Records.—No. 20 authorizes a transfer from the Registrar's Office to the Surveys Office of certain plans and to provide for matters connected therewith. Its object is to authorize a transfer from the Registry to the Surveys Office of all plans, except those attached to deeds, and allotment plans.

No. 21 amends the Registration of Documents Ordinance, No. 30 of 1937. Its object is to remove the provision in the Registration of Documents Ordinance requiring that all plans should be registered; and to permit the registration of allotment plans.

Crown Lands.—No. 22 amends the Crown Lands Ordinance, c. 77, and provides for the deposit of all plans under the Crown Lands Ordinance at the Surveys Office instead of the Registrar's Office.

Forests.—No. 25 provides for the protection of Forests in the Colony. It is intended to restrict the wanton destruction of forest areas on Crown Lands, and sets up machinery whereby owners of private forests can have their forests supervised and managed free of charge by Government Forest Officers.

Tonnage Dues.—No. 27 amends the Tonnage Dues Ordinance, c. 203. Its object is to exempt pleasure Yachts from the payment of tonnage dues, No. 28 exempts pleasure Yachts from the payment of fees in respect of Bills of Health.

Quarantine.—No. 31 relates to Quarantine and similar matters. It is the result of the recommendations of the British West Indian Quarantine Conference held in Trinidad in November, 1943. The Conference in its Report recommended the adoption of uniform Quarantine legislation in the British West Indies.

6. TRINIDAD AND TOBAGO

[*Contributed by* H. W. Wilson, Esq., *Attorney-General.*]

Forty-eight Ordinances were passed during the year 1945, of which the following are the more important:—

Workmen's Compensation.—No. 12 (*a*) grants to agricultural workers, other than those employed on small agricultural holdings, the benefits of the principal Ordinance ; (*b*) gives to domestic servants, other than those employed in private houses, and to persons employed exclusively as clerical workers and/or shop assistants, provided they come within the definition of " workmen," the benefits of the principal Ordinance ; (*c*) includes within the definition of " workmen " persons employed otherwise than by way of manual labour whose remuneration does not exceed $1,200 a year, in place of the maximum of $960 provided by the principal Ordinance ; (*d*) reduces from ten days to three days the maximum period of incapacity necessary to qualify for compensation ; (*e*) qualifies a workman or his dependants for compensation, as under the United Kingdom Act of 1925, even if an injury is attributable to serious and wilful misconduct of the workman, provided that the injury resulted in death or serious and permanent disablement and the accident arose out of and in the course of employment ; (*f*) provides that where a workman has been examined by a medical practitioner but no agreement is reached between the employer and the workman as to the workman's condition or fitness for employment the matter may be referred to a medical referee ; (*g*) increases the maximum compensation payable in cases of death and permanent total disablement ; and (*h*) amends the method of calculating " monthly wages."

Hindu Marriage.—No. 13 provides for the solemnization and registration of Hindu Marriages in accordance with the Hindu law and custom with the object of legitimizing the children of Hindus.

Agricultural Credit Bank.—No. 14 provides for the establishment of an Agricultural Credit Bank to be administered by a Board of Management. The Bank will take over the assets and liabilities of the Agricultural Bank and make loans for the development, maintenance and improvement of agricultural lands and for other prescribed purposes.

Immigration.—No. 19 facilitates the entry of persons in the Colony and provides adequate safeguards for the removal from the Colony of persons who fail to comply with the conditions governing such entry. The Ordinance also provides for the issuance of temporary permits to immigrants coming to the Colony *bona fide* for a temporary purpose, increases to two years the period during which a British subject who has broken any of the conditions of his permit shall be liable to be removed from the Colony and constitutes the Commissioner of Police as the Chief Immigration Officer.

Real Property.—No. 20 re-enacts with amendments the provisions of the Real Property Ordinance, c. 27, No. 11, but discontinues the practice of executing transfers, leases and mortgages in duplicate. Part IV of the Ordinance regulates the procedure for registering a person who has obtained title by adverse possession and for removing from the Register interests which have become statute barred and easements which have been abandoned. Special provision is made

for the granting of sub-leases and as regards caveats, the provisions of the Transfer of Land Act, 1928 (Victoria) have been incorporated and the form of caveat amended.

Probate.—No. 25 provides for the granting of probate or administration by the Supreme Court to a trust corporation.

Judicature.—No. 32 provides for the making of Rules of Court by a Committee comprising the Chief Justice, the Attorney-General or any other officer referred to in Part I of the Schedule to the Law Officers Ordinance, the Registrar of the Supreme Court, one practising barrister nominated by the Bar Council and one practising solicitor nominated by the Trinidad Incorporated Law Society instead of by the Chief Justice with the concurrence of a Puisne Judge. The Ordinance also does away with the necessity for Rules of Court to be approved by the Governor-in-Council and the Legislative Council, although the Rules must be laid before the Legislative Council, which may by resolution annul any such rule.

Electricity.—No. 42 establishes a Commission to operate an undertaking for the generation and supply of electricity throughout the Colony, exclusive of the Borough of San Fernando, and subject to the rights of the Port-of-Spain Corporation to supply electricity within the City of Port-of-Spain and for the transportation system operated by the Corporation under the Port-of-Spain Corporation Electricity Ordinance and subject to the provisions relating to private installations contained in Part VII of the Bill.

No. 43 confers on the Port-of-Spain Corporation the exclusive right to distribute (but not generate) electricity within the City limits and to transfer to the Corporation the right to operate the transportation system and the merchandise department recently operated by the Trinidad Electricity Board.

No. 44 provides for the appointment of Electric Inspectors to inspect electrical installations, plants, apparatus and works ; the issuing of certificates before new installations are operated and the suspension of the operation of any installation or apparatus found by an inspector to be defective.

Public Works.—No. 46 authorizes the raising of loans to defray the expenditure of a new water supply at Caura and the construction of such other public works as the Legislative Council may approve.

Land Acquisition.—No. 47 widens the right of appeal, in certain cases, to the Full Court and the West Indian Court of Appeal and to the Privy Council.

Credit Union Societies.—No. 48 provides for the registration and control of co-operative credit societies, established with the object of promoting thrift amongst their members and creating a source of credit for their members for provident or productive purposes. The Ordinance also empowers a registered credit union to receive the savings of its members.

XIII. MEDITERRANEAN

1. GIBRALTAR

[*Contributed by* A. McKisack, Esq., *Attorney-General.*]

Seventeen Ordinances were passed during the year 1945, the more important of which were the following:—

Evacuation of the Civil Population.—An Indemnity Ordinance (No. 1) was deemed necessary to validate various orders and regulations by virtue of which the evacuation of civilians from Gibraltar to the United Kingdom and elsewhere had been effected during the early part of the war.

City Council.—For the management of its municipal affairs Gibraltar has a city council of which some of the members are nominated by the Governor and others are elected by the citizens. As the civil population was evacuated to other countries for the war period the city council was temporarily replaced by a com-

missioner appointed by the Governor. Most of the civil population has now returned from overseas, and Nos. 2 and 3 reconstitute the council with a larger membership than before the war, with a majority of elected over nominated members, and with wider powers.

Rent Restriction.—No. 11 extends the application of the local law relating to rent restriction, the main principles of which are similar to those of the Rent and Mortgage Interest Restriction Acts, 1920 to 1933, of the United Kingdom, to dwelling-houses of a rateable value of £100 a year in place of the former limit of £60. No. 9, on the other hand, brings to an end a wartime measure under which landlords were precluded from recovering from their tenants more than one-third of the rent at which any dwelling-house was let at the date when the evacuation of the civil population began (May 1, 1940).

Public Health.—No. 12 prohibits the treatment of venereal disease by persons who are not duly qualified medical practitioners and controls the supply of remedies for the disease.

Emergency Powers.—No. 13 enables an alien who, under powers conferred by Defence Regulations, has been removed from a vessel or aircraft and detained in Gibraltar to be removed to the United Kingdom or any country or territory to which the Emergency Powers (Defence) Act, 1939, has been extended.

2. CYPRUS

[*Contributed by the* Hon. Stelios Pavlides, K.C., *Attorney-General.*]

Thirty laws were enacted in Cyprus during 1945 but the outstanding one, indeed one of the most outstanding legislative measures introduced in Cyprus during the British occupation, is the Immovable Property (Tenure, Registration and Valuation) Law, 1945, which is a law consolidating and amending the law relating to tenure, registration and valuation of immovable property and will come into operation on September 1, 1946.

Land Tenure.—Land tenure in Cyprus was governed by the Ottoman Land Code which, though a sufficiently comprehensive enactment, had gone out of date ; under it, land was divided into various categories the main two of which were the Arazi Mirié lands and the Mulk lands. The former were lands the legal ownership of which vested in the State, the possessor having only the perpetual enjoyment thereof and comprised most of the arable lands in the Island ; the latter were the only lands which could be the subject of complete private ownership and comprised dwelling-houses, trees, building plots and generally small plots of land in the vicinity of towns or villages. The incidents of tenure on account of this division of land into categories and the resulting undesirable features were many and variable, the most noticeable being the restriction on testamentary disposition of Arazi Mirié and the differentiation between succession to Mulk and transmission of Arazi properties.

Under the new law, the division of lands into categories is abolished and lands of all categories will be held and enjoyed in full ownership and all old distinctions and differentiations will disappear.

An unsatisfactory feature was the separate ownership of land and of trees on such land which greatly affected their proper enjoyment. The general trend of the new law is to bring land and trees under one ownership and the law makes provision enabling this to be attained by partition, re-adjustment of interests or the compulsory acquisition of the minor interest by the owner of the greater interest, upon payment of its estimated value.

A special section of the law sets out what may be described as a set of rules against fragmentation of holdings into plots of uneconomic value, a restriction which is anticipated will prove beneficial to, and will assist in, land development.

The opportunity was taken to revise and simplify the laws relating to regis-

tration and valuation of immovable property and include them as separate parts in the new law.

To avoid litigation, disputes over boundaries and over a variety of other land questions are to be decided, in the first instance, by the Director of Land Registration and Surveys, subject always to an appeal to the Court.

Other important laws enacted during 1945 are the following:—

Provident Fund.—Government Employees Provident Fund Law, 1945, establishes a provident fund on familiar lines, for persons in the permanent service of the Government holding an office the maximum salary of which does not exceed £120 per annum.

Limitation of Actions.—Limitation of Actions Law, 1945, which does away with another set of provisions of the Ottoman Civil Code dealing with the limitation of actions.

Finance.—Loan Law, 1945, making provision for a further loan of £500,000 by the issue of bonds redeemable at a premium by drawing by lot of a certain number every year.

Pharmacy.—Pharmacy and Poisons Law, 1945, which consolidates and amends on comprehensive lines the laws on the subject.

Wills.—Wills and Succession Law, 1945, which amends and consolidates the laws on the subject and will come into operation on September 1, 1946, simultaneously with the Immovable Property (Tenure, Registration and Valuation) Law, 1945.

The law will apply to all immovable property without distinction (the old laws took no account of Arazi Mirié lands). It will also apply to Moslems who were excluded from the operation of the old laws and were thus unable to dispose of their property by will; the peculiar and complicated provisions of the Moslem Sacred Law under which succession was regulated among Moslems will also disappear and the matter will now be governed by the provisions of the new law which are common to all.

3. MALTA

[*Contributed by* J. M. Ganado, Esq., LL.D.]

Ten Ordinances were enacted during the year 1945.

Electoral Law.—Ordinance I amends Ordinance XIX of 1939. In virtue of the amendment every male British subject of the age of 21 years or upwards who is ordinarily resident in Malta and has resided therein for a period of not less than 12 months is entitled to be registered as a voter. According to the 1939 Ordinance certain qualifications were requisite: the person wishing to be registered had to show that he could read and write *or* that he was in receipt of an income of not less than £5 per annum from immovable property or from some capital *or* that he was paying rent of not less than £5 per annum. In consequence of the amendment above referred to no qualification is now required, besides sex, nationality, age and residence.

Trade Unions.—Ordinance IV is the Trade Unions and Trade Disputes Ordinance. The words "trade union" refer to any combination aiming at the regulation of the relations between workmen and masters or between workmen and workmen or between masters and masters; such unions will not be deemed to be contrary to law merely on the ground that they may operate in a way as to produce a restraint of trade. However, no trade union or member thereof shall perform any act in furtherance of the union's aims unless the trade union has been registered.

For the purposes of registration at least seven members of the trade union must subscribe their names to the rules of the union and forward to the Registrar within three months of its formation an application, a list of the members and all

necessary information relative to the constitution and purposes of the union ; any change in the rules governing the union are to be registered and any alteration will not have effect unless and until such condition be verified. Upon a refusal of the Registrar to effect the registration of the trade union an appeal may be lodged before His Majesty's Court of Appeal which is the highest Court in the Island ; such right of appeal is also exerciseable in case the Registrar decides to cancel the registration of a trade union on certain grounds specified in the law.

The officers of trade unions are under the obligation of transmitting to the Registrar every year a statement of the receipts, funds and expenditure of the trade union, a copy of the annual report and of the Minutes of the meetings, besides other details in regard to the Executive Committee and to membership in general. Whenever the Treasurer of a trade union is asked to draw up the balance sheet and to surrender the accounts for examination by the members, the audited account is to be sent to the Registrar within one month.

No action is exerciseable against a trade union on the basis of " an offence or quasi-offence " alleged to have been committed by it with respect to acts performed in contemplation or in furtherance of a trade dispute. But the law relating to riot, unlawful assembly, breach of the peace or sedition or any offence against the State or the Sovereign or conspiracy retains full force.

The law finally declares that whoever tries to intimidate or annoys a person with a view of compelling him to do or to abstain from doing an act which he has the right to abstain from doing or to do commits a punishable offence ; likewise subject to punishment will be the person who tries to impose his will on any matter connected with a trade dispute by means of intimidation, whether open or virtual.

War Damage.—Ordinance V amends Ordinance III of 1943. According to the original Ordinance the War Damage Commission was made up of a Chairman and not less than four and not more than *six* other members. This amending law changes the numerical composition of the Commission, which is now formed of not less than four nor more than *nine* ordinary members, besides the Chairman.

Special provisions are enacted for the regulation of the indirect contribution payable by the " directus dominus." A distinction is drawn between perpetual and temporary emphyteuses. In the first case the direct owner must pay in respect of the first five instalments the lesser amount between one-half of the contribution and one-half of the ground-rent ; in the second case the same rule covering all ten instalments obtains, if the remaining period of the grant exceeds ten years or is contingent on death. If the remaining period is less than ten years, in addition to the part above mentioned the direct owner will have to pay a fraction of the whole direct contribution having as numerator the number of years already lapsed and as denominator the entire period of years multiplied by two.

The law creates the Building Costs Board consisting of a Chairman and of not less than six nor more than nine members for the regulation of prices. The " proper cost " of works carried out at a time subsequent to the date fixed in the Ordinance will be deemed to refer to the prices fixed by the Building Costs Board.

The law under review authorizes the War Damage Commission in its absolute discretion to grant payment in advance when it is satisfied that the owner of a tenement is not in a position to carry out the necessary works and shoulder the necessary expense in respect of war damage that would give rise to a cost of works payment. The Commission may impose the conditions it may think proper and the whole amount given will be subject to recovery by the Treasurer in case any condition is violated.

New sections are enacted for the making of payments in favour of the General Revenue of the Government of Malta from War Damage Funds when it appears that money was expended from the General Revenue for purposes falling under

the War Damage Ordinance and in favour of the Service Authorities in case moneys from Imperial Government sources were employed in respect of chattels belonging to members of the Armed Forces sustaining war damage.

XIV. MIDDLE EAST

1. TRANS-JORDAN

[*Contributed by* A. L. GARDINER, ESQ., *Judicial Adviser.*]

TWENTY-SIX laws were passed during 1945. Of these six were financial, 14 amended existing legislation and three were of purely local interest. Further one granting a special pension to an individual, was passed as an Ordinance by His Highness The Amir in Council in accordance with article 41 of the Organic Law, but later lapsed as it was not confirmed by the Legislative Council. The two remaining laws were:—

No. 16, The Trades Unions & Trades Disputes Law, which provided for the constitution of Trade Unions on English lines.

No. 26, The Income Tax (Addendum) Law. Prior to this law income tax had only been imposed on Government Officials and other salaried persons. The present law introduced income tax generally, and was based on the English law.

Three cases were decided by the Diwan Khas during the year, which were of purely local interest. Very few regulations or orders were made under the Defence Law during the year, and much existing Defence legislation was repealed.

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